

THE UNITED NATIONS OIL-FOR-FOOD PROGRAM:
A REVIEW OF THE 661 SANCTIONS COMMITTEE

HEARING
BEFORE THE
SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS
OF THE
COMMITTEE ON ENERGY AND
COMMERCE
HOUSE OF REPRESENTATIVES
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TUESDAY, JUNE 21, 2005

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 2123, Rayburn House Office Building, Hon. Ed Whitfield (chairman) presiding.

Members present: Representatives Whitfield, Stearns, Bass, Walden, Burgess, Blackburn, Barton (ex officio), Stupak, and Inslee.

Staff present: Mark Paoletta, chief counsel; Andrew Snowden, majority counsel; Tom Feddo, majority counsel; Michael Abraham, legislative clerk; Edith Holleman, minority counsel; Chris Knauer, minority counsel; and Voncille Hines, minority assistant.

Mr. WHITFIELD. This morning the subject of our hearing is the United Nations Oil-for-Food Program, a review of the 661 Sanctions Committee. I want to thank the witnesses for being here this morning: Mr. Tom Schweich, who is Chief of Staff, United States Mission to the United Nations at the Department of State, and he is accompanied by Andrew Hillman, who is the Director of the Sanctions Unit, United States Mission to the United Nations, and Eugene S. Young with the U.S. Department of State.

At this time, I will give my opening statement, and we will do the opening statements and then we will get to the testimony.

The United Nations Oil-for-Food Program has been described as both a tremendous success and a dismal failure. While the program did improve the humanitarian situation in Iraq, it also permitted Saddam Hussein to steal from his own people billions of dollars that were desperately needed. If sanctions are to remain a viable tool for promoting freedom and human decency around the world, we need to scrutinize the Oil-for-Food Program and learn from its mistakes.

On May 16, this subcommittee held a hearing that examined through a variety of recently translated documents how the former Iraqi regime of Saddam Hussein attempted to undermine sanctions by exploiting divisions among the various permanent members of the United Nations Security Council. Today's hearing will focus on how these divisions may have adversely impacted the program and permitted Saddam to skim billions of dollars that would rightfully have gone to the Iraqi people.

We will hear from several individuals who were involved in the day-to-day inner workings of the 661 Sanctions Committee, and we will review among other documents the minutes of numerous meetings of the 661 Committee. Unfortunately, the story of the Sanctions Committee at least as it relates to the Oil-for-Food Program is somewhat a paradox. Because of the 661 Committee's economic consensus requirement, political and economic agendas often carry the day.

Member states who were profiting from Saddam's manipulations were unwilling to support reforms that could have tightened sanctions and reduced much of the graft and corruption. Perhaps the most egregious example of this blatant national self-interest is the oil surcharges. Confronted with substantial evidence that shady oil purchasers under the program were reaping premiums of 5, 10 even 20 times what is typical in the industry, monies that should have been flowing into the program, these nations opted for a "see no evil, hear no evil" approach.

When the United States and Great Britain ultimately eliminated excessive premiums by imposing a retroactive pricing system, these nations claimed that the reforms rather than the illegal surcharges were hurting the Iraqi people by reducing oil exports. This is like having someone set your house on fire and then blaming the fire department for water damage after they put out the blaze.

I would like to thank all three of the State Department witnesses who will be testifying here today. I look forward to hearing your experiences and impressions. The committee appreciates the work you have done for this country and the time you have devoted to this important issue.

Finally, I would like to express my disappointment with the United Nations and the independent inquiry committee chaired by Paul Volcker, a man with whom we had profound respect. We had intended to have a former United Nations oil overseer here today to testify about the interactions with the 661 Committee and his efforts to eliminate the oil surcharges. Unfortunately, the United Nations, at the request of Mr. Volcker, has refused to allow this individual to appear before the committee. The fact that the United Nations authorized committee staff to interview this witness approximately 2 months ago made this decision particularly inexplicable. For an organization that has pledged itself to greater transparency in the wake of the oil-for-food scandal, the United Nations clearly appears to have a long way to go.

I might also add, when we finish this public portion of the hearing today, we will go into executive session because of some confidential minutes that we will be looking into. At this time, I would like to recognize our ranking member, Mr. Bart Stupak of Michigan.

[The prepared statement of Hon. Ed Whitfield follows:]

PREPARED STATEMENT OF HON. ED WHITFIELD, CHAIRMAN, SUBCOMMITTEE ON
OVERSIGHT AND INVESTIGATIONS

The United Nations Oil-for-Food Program has been described as both a tremendous success and a dismal failure. I tend to think that the truth is probably somewhere in between: while the Program did improve the humanitarian situation in Iraq, it also permitted Saddam Hussein to steal from his own people billions of dollars that were desperately needed. If sanctions are to remain a viable tool for pro-

motoring freedom and human decency around the world, we need to scrutinize the Oil-for-Food Program carefully, warts and all, and learn from its mistakes.

On May 16, this Subcommittee held a hearing that examined, through a variety of recently translated documents, how the former Iraqi Regime of Saddam Hussein attempted to undermine sanctions by exploiting divisions among the various Permanent Members of the United Nations Security Council. Today's hearing will focus on how these divisions may have adversely impacted the Program and permitted Saddam to skim billions of dollars that should rightfully have gone to the Iraqi people. We will hear from several individuals who were involved in the day-to-day inner workings of the 661 Sanctions Committee, and we will review, among other documents, the minutes from numerous meetings of the 661 Committee.

Unfortunately, the story of the 661 Sanctions Committee, at least as it relates to the Oil-for-Food Program, is neither pretty, nor promising. Because of the 661 Committee's consensus requirement, political and economic agendas often carried the day. Member States whose companies were profiting from Saddam's manipulations were unwilling to support reforms that could have tightened sanctions and reduced much of the graft and corruption.

Perhaps the most egregious example of this blatant national self-interest is the oil surcharges. Confronted with substantial evidence that shady oil purchasers under the Program were reaping premiums of 5, 10, even 20 times what is typical in the industry—monies that should have been flowing into the Program—these nations opted for a “see no evil, hear no evil” approach. And when the United States and Great Britain ultimately eliminated these excessive premiums by imposing a retroactive pricing system, these nations claimed that the *reforms*, rather than the illegal surcharges, were hurting the Iraqi people by reducing oil exports. This is rather like having someone set your house on fire and then blaming the fire department for water damage after they put out the blaze.

I would like to thank all three of the State Department witnesses who will be testifying here today: Thomas Schweik (pronounced Schwike); Andrew Hillman, and Eugene Young. I look forward to hearing your experiences and impressions. The Committee appreciates the work that you have done for this country and the time that you have devoted to this important issue.

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Mr. STUPAK. Thank you, Mr. Chairman, over the past year numerous allegations have been made in Congress and elsewhere about improper action by officials at the United Nations in administering the Oil-for-Food Program. Much outrage has been expressed by many in Congress about the illegal smuggling of oil by Saddam Hussein, mostly through Jordan and Turkey, even though two congressional committees officially acknowledged the smuggling every year. It was also discussed in the media more than 4 years ago.

How could this have occurred under the sanctions program established by the Security Council of which the U.S. is a member? There has been a mysterious lack of public discussion about the extremely cumbersome structure established for this program by the Security Council and lack of effective member oversight. There also has been no attention paid to the U.S. role in refusing to stop the smuggling of Iraqi oil by its allies, oil which often ended up in the United States.

I want to thank you, Mr. Chairman, for opening up at least some of that discussion today by looking at the U.N. 661 Sanctions Com-

mittee which was charged with enforcing the sanctions against Iraq and also administering the Oil-for-Food Program. The 661 Committee was established in 1990 after Iraq invaded Kuwait. All of the members were keenly aware of the attempts by Saddam Hussein and others to get around the sanctions. They knew about the smuggling, surcharges and all types of kickbacks.

In 1997, the committee was told that Iraq was using money from oil smuggling to obtain prohibited goods. In March 2000, the committee was told Iraq could take in as much as \$500 million in illegal revenue in that year alone. The committee, which was composed of permanent and nonpermanent members of the Security Council, was hamstrung by its consensus rule. When the United States wanted to write a letter to Syria about reopening of the oil pipeline from Iraq, other members refused, pointing out that the U.S. will not even discuss the openly illegal trade between Iraq, Jordan and Turkey.

Additionally, international sanctions imposed by the United Nations are only as effective as the member states want them to be. As one of the members of the Security Council stated in 1996, it is a fundamental principle that the Security Council adopt resolutions, but that member states had responsibility for their implementation.

Some neighboring countries such as Jordan and Turkey openly negotiated trade memoranda of understanding with Iraq every year. Iran traded in oil in full view of the Multinational Inception Force, or the MIF. The MIF also gave the committee regular reports on smuggling in the Persian Gulf. Others more quietly just conducted trade. Allegations that a particular country was violating the sanctions were followed up by a letter to that country asking for an explanation. It could take months to get a credible answer.

Last week Chairman Barton added to the United Nations Reform Act a provision establishing a formal review of the Volcker commission's report on the Oil-for-Food Program. During that debate, the chairman said, "any investigation of the Oil-for-Food Program with even the appearance of bias or inadequacy will result in, at best, unanswered questions or, at worst, unresolved problems. Allowing either to fester in the U.N. can only serve to degrade the organization's already strained credibility and threaten its ability to function properly."

I want to point out potential bias and inadequacy shown by this committee in this investigation. Petroleum Intelligence Weekly reported in March 2002 that, "Russian firms holding crude oil contracts under the U.N. Oil-for-Food Program are currently the largest sellers of Iraqi crude while U.S. refineries are the largest buyers, both sharing some 50 percent of the volumes." Chevron, Texaco and other refiners couldn't get enough of the Basra Blend, the newsletter reported. What do these U.S. companies know about the smuggling and illegal surcharges that were part of Iraqi's oil route?

Also over 1,000 U.S. companies were certified to provide humanitarian goods to Iraq. Did they pay kickbacks to Saddam Hussein to get the business? We have been told that the chairman has no interest of looking at the role U.S. companies played in the illegal smuggling and payment of surcharges to Iraq. Why this committee

would self-impose strategic limits on its ability to find the truth is without precedent and is rather bizarre. Are we afraid of the answers? Have we decided, Mr. Chairman, if we are going to do a credible investigation or a me-too pseudo investigation that conveniently leaves our friends alone in exchange for wild goose chases?

After our last meeting our staff went to France to see if we could uncover illegal profiting by French politicians. The purpose of that visit was to interview Charles Pasqua, a prominent French politician who was named in a recent Senate report and in a letter that Chairman Barton sent to President Chirac as being closely affiliated with the Oil-for-Food scandal. Mr. Pasqua was named in the Chalabi produced list as having been granted oil allocations by Saddam Hussein. Yet in two recent letters sent to this committee by Mr. Pasqua and in a transcript of his interview with the staff which are attached to my opening statement, Mr. Pasqua emphatically denied that he ever traded in oil, was never the beneficiary of allocations from Iraq or received any remuneration from Iraqi crude oil trades.

So what we have here is an unanswered question and unresolved problem, Mr. Chairman. The list of oil allocations which cannot be verified suggests Mr. Pasqua's involvement in this matter, but Mr. Pasqua flatly denies involvement. Mr. Pasqua encouraged this committee to explore fully the facts and agreed to open his financial records to the committee. Mr. Pasqua is either untruthful or his name has been unfairly tarnished as a result of this matter. We can attempt to dig more deeply into the Pasqua case to determine who actually benefited from some of these transactions and how they were structured, who were the middlemen trading companies, such as Jenmar that apparently lifted the crude oil in Mr. Pasqua's name. Can any of these employees associated with Jenmar be located and interviewed? Where did the proceeds go? Do we have a money trail?

We can follow the Pasqua allegations from France, Iraq and Switzerland and to wherever the oil went in and hope to get enough credible evidence to come to reasonable conclusions. It would take a long time and a great deal of resources. It may be important to learn the facts about how these transactions occurred and who benefited from them. It might be easier and useful to this Nation to determine how U.S. refiners and other companies participated and benefited from the sordid schemes of Saddam Hussein. I would suggest once again that this committee concentrate its efforts here.

Thank you, Mr. Chairman.

Mr. WHITFIELD. I recognize the gentleman from Texas, Mr. Burgess.

Mr. BURGESS. Thank you, Mr. Chairman, and thank you for holding yet again another important hearing on the oil-for-food situation. It is well known that the United Nations originally established Oil-for-Food for the noble cause of aiding and providing for the humanitarian needs for the Iraqi people trapped under Saddam Hussein's regime. This program was quickly morphed into a financial scandal of epic proportions. It has now turned into an international crisis, and I sincerely hope this committee will continue its oversight regarding this serious matter.

At our last hearing, we focused on Saddam Hussein's regime use of oil allocations to accentuate diversions or divisions within the United Nations Security Council as a means of undermining sanctions. I look forward to examining these divisions from the perspective of individuals who have actually worked within the 661 Committee. Particularly I would like to discuss if there were divisions among the permanent member states within the 661 Committee concerning the Oil-for-Food Program. Also, I would like to examine whether certain permanent member states resisted remedial efforts to eliminate many of the abuses of the Oil-for-Food Program perpetrated by the regime.

I realize that these concerns may have to be further addressed in the closed session, but I do look forward to getting to the bottom of this grave issue.

Mr. Chairman, I would just add to what you already said about this committee not having receiving permission from the Volcker commission to interview the U.N. oil overseer during this investigation as well. I think that was unfortunate, and I hope you will continue to apply the pressure that you can to bring all of the concerned people before this committee, and I yield back.

Mr. WHITFIELD. Thank you, Dr. Burgess. At this time, I recognize Mr. Inslee of Washington.

Mr. INSLEE. Thank you, Mr. Chair. This may be a bit of an unusual comment, but I want to express comments about our hearing today and what I think my neighbors would say. I live in the Holly neighborhood on Bainbridge Island in Washington State, and one of our sons we have watched grow up in Little League is going to Baghdad in January. And he is a single parent of a 10-month old son. And he is shipping out with the U.S. Army to Baghdad and he is in training now. And I just kind of think my neighbors might ask some very serious questions about why we are here today when we are sending my neighbor's son to war in Baghdad.

I have to question whether the reason we went to war is because of Saddam's fooling around with the Oil-for-Food Program. I don't think that is why he is being sent to war. He is being sent to war because an administration used false information to start a war that is sending my neighbor's children to a potential demise in the sand of Iraq. I would be pleased and I think my neighbors would be more interested as to how the Federal Government of the United States started a war based on materially false information, sending our children to war, than fiddling around with how Saddam stole some oil from United Nations or Exxon or anybody else.

We ought to be investigating what we now learn from the Downing Street memos that, according to the British review of our intelligence, our intelligence was fixed around our policy rather than the other way around and that our intelligence was folded, spindled and mutilated leading to a war in which we have lost 1,700 of our children. And we read in the Downing Street memos that the President of the United States made a decision to take this country to war well before, well before there was any material effort to resolve this matter other than through armed conflict.

Those are matters worthy of the U.S. Congress investigating, and I don't blame the chairman for this because this may not be within his jurisdiction, and I respect the Chair and whatever decision he

makes about this hearing. But those are the things that the U.S. Congress ought to be investigating. Our children are not dying because of any scandal from the Oil-for-Food Program. They are dying because of materially false information used to invade another sovereign country.

This is something that we ought to get to the bottom of, and the only people that had a discussion has been down in the basement in a non-sanctioned hearing by the U.S. Congress to find out what happened here. And my neighbors in the Holly neighborhood would prefer us focusing on a different place. And I just have to tell you that perhaps I am influenced by the personal mourning of these people going to war, but I just think we are looking at the wrong place that the U.S. Congress ought to be working on.

Mr. WHITFIELD. Recognize the gentleman from Florida, Mr. Stearns.

Mr. STEARNS. Thank you, Mr. Chairman, and I want to thank you for holding this hearing. I think this is more than the gentleman from Washington indicates. This is not just some oil that was stolen. I think it should be a much investigated thing. It has relevance here. The war on Iraq does not have relevance on this oversight subcommittee, it is International Affairs, and as the gentleman knows, there is no jurisdiction here with that and it is a separate issue.

The issue of the Oil-for-Food Program has come to the forefront, and I think it is because of some congressional investigations, of which this is one in which we have jurisdiction. Numerous reports have been released, and even as we speak more investigations are going on. And of course as we dig deeper and deeper into this scandal, we find it fraught with fraud and abuse and it is much more widespread than we thought. Documents released by our full committee demonstrate the more we know, the worse it gets. And yet we may be just scratching the surface even with all the information we know, this wider web of corruption.

The abuse of the Oil-for-Food Program has become symptomatic of the overall mismanagement at the United Nations. The United Nations, I believe, needs to be reformed. They once was a relevant organization. Now I think it has more or less just become a debating society and it appeases terrorists. Proliferations of weapons of mass destructions are never looked at. They are excused almost under the table. They are enabled. And of course the Oil-for-Food scandal becomes part of that whole problem with the United Nations.

According to CRS, the Oil-for-Food Program terminated following the fall of the Saddam Hussein regime. Unless we stopped Saddam Hussein that Oil-for-Food Program would continue. However, since the fall of the regime there has been numerous allegations of mismanagement and abuse and we all know that Saddam Hussein has manipulated the program to influence all of these United Nations officials, not only officials but contractors and politicians, and businessmen in numerous countries.

So new attention has been focused on Iraq's oil for sale to neighboring countries that are even outside the control of the monitoring program itself. Now some of the things the investigation had revealed, corruption and mismanagement and contractors who were

intimately involved with the program, and it really calls into question the lack of action on the part of the United Nations.

Sanction committee members, including the United States, were to halt Iraq's profitable oil for sales outside of the program over its 10-year period. According to investigations conducted by the United States, U.N. and Iraqi officials, the regime of Saddam Hussein used two distinct illicit methods to generate funds following the imposition of sanctions on Iraq by the United Nations Security Council. Iraq illicitly sold oil to some neighboring countries from 1990 to 2003 in violation of the U.N. sanctions that predated and remained outside of the auspices or control of the program. And second, Iraq exploited loopholes and program regulations to impose a surcharge on buyers purchasing approved oil shipments and to solicit kickbacks from suppliers of humanitarian and other civilian goods purchased with funds from the program's escrow account.

Now some of these illicit funds were used to procure military supplies and commodities that again were banned under the U.N. sanctions in the first place. The primary concern of U.S. officials prior to the fall of Saddam Hussein was that Iraq was reportedly using illicit revenues to buy prohibited military and weapons of mass destruction technology. Following the regime's fall in 2003, allegations have emerged concerning Saddam Hussein's purported use of his control over oil and humanitarian goods contracts to simply influence foreign officials, parties and companies and then go back and reward individuals and entities perceived to be supportive of Iraq's position.

As we can see, Mr. Chairman, the U.N. Oil-for-Food Program lacked proper accountability at the U.N. oversight and thus caused this massive corruption and fraud. I look forward to our panel and look forward to hearing your thoughts on what can be done to ensure other U.N. programs do not suffer the same fate.

Mr. WHITFIELD. I recognize the gentlelady from Tennessee, Mrs. Blackburn, for her opening statement.

Mrs. BLACKBURN. Thank you, Mr. Chairman, and I would like to thank the chairman for holding this hearing today and I would like to thank the full committee chairman for allowing us to have this hearing today.

As this subcommittee goes about and continues its investigation into the Oil-for-Food Program, I hope that we are going to be able to expose all the parties who have contributed, participated and instituted the illegal and questionable activities conducted as a part of this program. I think that for many of us we worry that it is symptomatic of other programs there at the U.N. The Oil-for-Food Program is just one example of why this body, the House, passed the U.N. Reform Act last week and why we think it is so important to require programs to become accountable, to have financial disclosures, to ask the U.N. to look at the way they manage their operations and their programs, and we will be watching. We will be watching very closely. We hope that there is progress made.

We must hold the U.N. and its employees and members accountable for past mismanagement and confiscation and the use of our dues. You know, the U.S. contributes more than \$400 million in dues and then spends billions on voluntary aid and military aid peacekeeping. My constituents are quite concerned about this. They

are very concerned. They are very concerned about the conduct. They are very concerned about the lack of desire, apparent desire, for financial accountability, and I hope that this hearing is another positive step toward holding these employees accountable.

I want to welcome and thank our witness, and Mr. Chairman, again I thank you for agreeing to hold the hearing and I yield back.

Mr. WHITFIELD. Thank you very much. At this time I recognize the chairman of the full committee, Mr. Barton of Texas.

Chairman BARTON. Thank you, Mr. Chairman. I want to say several things in this opening statement and I may take a little bit longer than the 5 minutes. First of all, I want to respond to my good friend Mr. Inslee's opening statement about why we are doing this hearing.

The Energy and Commerce Committee doesn't have total jurisdiction over the Federal Government nor even the United Nations, but it does have some jurisdiction over energy policy, and it is my clear belief that Saddam Hussein used the oil, which is the energy of the Iraqi people, to keep himself in power. It is my clear belief that Saddam Hussein used the auspices of the United Nations to abuse the humanitarian intent of the Oil-for-Food Program, which all U.S. citizens support that we should provide food and clothing and medicines to alleviate suffering not only in Iraq but anywhere in the world. Saddam Hussein used our humanitarian instinct in a positive way from our behalf, in a very negative way for his behalf. And as chairman of the full committee, if I have any authority and any ability to bring that corruption to the surface and, at a minimum, prevent it from being done in the future, I am going to do that, and I make no apologies for it.

I think these hearings—and I would tell my friends on the minority side, this is the committee that did the first hearing on the Oil-for-Food scandal, not in the Bush administration but back in the Clinton administration when the Clinton administration strongly defended the program. We are the first committee that brought the corruption in the program to light, you know, 6 years ago.

These hearings might result in some of the money that has been ripped off being actually recovered and used for good purposes for the Iraqi people today. These hearings might result in some reforms at the United Nations today. These hearings should definitely result in future humanitarian programs done under the auspices of the United Nations being run properly and not misused as the Oil-for-Food Program was misused or in some cases used for illegal or contrary purposes.

So that is why we are doing these hearings. That is the job of the U.S. Congress, to be an oversight watchdog for the American people. And unfortunately in today's world, sometimes it is the American people that almost unilaterally have to stand for truth and justice. I wish that weren't the case, but sometimes it appears it is the case.

The United Nations has become a forum for anti-Americanism. The United Nations is not the United Nations that was intended in 1945 when Eleanor Roosevelt was the delegate from the United States that went to the initial meeting in San Francisco where the United Nations was created. Her United Nations is a far cry from

the United Nations of today. And what little jurisdiction that the Energy and Commerce Committee has over these kinds of programs that can be used to fund the public good, so be it. I am for that.

And I want to speak specifically to this hearing. This hearing today is to focus on the aspects of the 661 Committee, which was the oversight committee or the management committee of the Oil-for-Food Program. The United States is a member of the 661 Committee, and United States representatives, in my opinion, generally tried to actually use the 661 Committee to operate the Oil-for-Food Program in an appropriate way. Unfortunately, they were not allowed to do that because some members of the 661 Committee felt it was the job of that committee to be a coverup for Saddam Hussein.

Now we have one specific member who was a staff member on the 661 Committee, a gentleman by the name of Michel Tellings. He is a United States citizen. He was interviewed by committee staff on two occasions, once by telephone and once in person, and he wanted to come and testify before this committee hearing today. But he had to sign a confidentiality agreement because he is also working for the Volcker commission. So my Staff Director, Bud Albright, called Paul Volcker and said would you let Mr. Tellings waive his confidentiality agreement? Would you let him testify before this subcommittee today? And Mr. Volcker said no. Wouldn't let him. So he is not here.

Now we could subpoena Mr. Tellings because he is a United States citizen, or I am told he is. We have chosen not to do that because we use the subpoena authority of the Congress very sparingly. I don't want to be a committee chairman who coerces testimony when it has been the tradition by Mr. Dingell before me and Mr. Tauzin and Mr. Bliley and I would assume Staggers that we only use the subpoena authority when it was absolutely necessary. But we have a U.S. citizen who could come before us today and he has not been allowed to because Paul Volcker doesn't want him to, and I say shame on you, Paul Volcker. If you are really trying to get truth and justice, you should allow everybody who can provide information to this committee, to come and do so.

I have just been told that Mr. Tellings is not a U.S. citizen. So we could not subpoena him. We would have to have the permission of Mr. Volcker to have him come. We are not going to have a full hearing today as we would have otherwise. But when we get into the question period, I am told it is appropriate to put in the testimony some of the information that we got from Mr. Tellings in the staff interviews.

Mr. Chairman, I appreciate you holding this hearing. We are going to try to get the ball moving forward, and what we are doing and the other committees are doing and with the U.N. reform bill that passed the House last week, we may yet get a U.N. that does cooperate and does stand for the ideals we hoped it would stand for when we created it at the end of World War II.

With that, I yield back.

[The prepared statement of Hon. Joe Barton follows:]

PREPARED STATEMENT OF HON. JOE BARTON, CHAIRMAN, COMMITTEE ON ENERGY
AND COMMERCE

Thank you Chairman Whitfield. This morning our Committee continues its careful scrutiny of the United Nations Oil-for-Food Program.

During last month's Committee oversight hearing on the Program, I mentioned that the U.N.'s "661 Committee" was paralyzed by bureaucratic infighting while Saddam Hussein's deception unfolded, thus crippling the Program and ensuring that it ended in disgrace.

Today, we will hear testimony and examine documents which demonstrate that even when the U.N.'s own "oil overseers" identified illicit activities, and even when the United States provided the 661 Committee with clear evidence of abuse and manipulation, the 661 Committee could not or would not act. When the United States or the United Kingdom pressed for action based upon this convincing evidence, other members would demand more proof or more time to consider the issue, or would only agree to issue ambivalent and toothless public statements.

The failure of the 661 Committee to stop Iraq's deceit gave Saddam tacit approval to rebuild the police state that allowed him to intimidate patriots inside Iraq and to threaten his neighbors.

The 661 Committee's infighting and the self-interested delay tactics by member nations expose a critical weakness in today's United Nations. That is why the House passed legislation last week that will demand meaningful reform, and will withhold a substantial portion of this nation's dues until that reform occurs. I enthusiastically support that bill, and added an amendment specifically dealing with the Oil-For-Food tragedy. I only wish the underlying bill and, therefore, my amendment, were stronger.

My amendment will require an investigation of the Oil for Food Program from top to bottom. Not only will that investigation be required to examine every aspect of Saddam's abuse of the Program, but also: every aspect of the U.N.'s involvement with and management of the Program, every aspect of the Volcker Commission's investigation, and finally, the extent to which the U.N. has cooperated with Congress—or perhaps more accurately, failed to cooperate.

On the failure to cooperate, this very hearing is a perfect example. We invited a U.N. oil overseer to today's hearing. He was available and wanted to testify. Yet the U.N. and the Volcker Commission refused to waive his confidentiality agreement and allow him to appear before us today. My Staff Director contacted Mr. Volcker directly and asked him to reconsider, and he refused. Let me just say that this is unacceptable, and does not support the U.N.'s claims that its operations are transparent or that it wants to get the bottom of this scandal.

This is why the U.N. must be reformed, and I hope the Hyde bill will jar the UN bureaucracy and begin to facilitate honest reform. Without change, the American people will never trust the United Nations.

Thank you, Mr. Chairman. I yield back the remainder of my time.

Mr. WHITFIELD. At this time, I recognize the gentleman from New Hampshire.

Mr. BASS. I waive.

Mr. WHITFIELD. At this point, we will swear in our witness for the morning. Mr. Schweich, you are aware that the committee is holding an investigative hearing and when doing so we have the practice of taking under oath. And do you have any objection to testifying under oath this morning?

Mr. SCHWEICH. No objection.

Mr. WHITFIELD. Now, it is my understanding that you have with you today Mr. Hillman and Mr. Young. And while the majority of the questions are going to be asked of you, I do know that there has been some interest in asking some questions of Mr. Hillman and Mr. Young. Do you mind if we bring them up and ask them to be sworn in at this time as well? I assume you don't want to be represented by counsel.

[Witnesses sworn.]

Mr. WHITFIELD. You are now sworn in and you have 5 minutes for your opening statement.

**TESTIMONY OF THOMAS A. SCHWEICH, CHIEF OF STAFF,
UNITED STATES MISSION TO THE UNITED NATIONS, U.S. DE-
PARTMENT OF STATE; ACCCOMPANIED BY ANDREW S.
HILLMAN, DIRECTOR OF THE SANCTIONS UNIT, UNITED
STATES MISSION TO THE UNITED NATIONS, U.S. DEPART-
MENT OF STATE; AND EUGENE S. YOUNG, U.S. DEPARTMENT
OF STATE**

Mr. SCHWEICH. Mr. Chairman and distinguished members of the committee, I am pleased to appear before you today to assist in your ongoing assessment of the multilateral sanctions regime previously imposed on the Iraqi Government from 1990 to 2003 and your focus on the U.N. Oil-for-Food Program which was established by the U.N. Security Council to alleviate the humanitarian consequences of these sanctions on the people of Iraq.

My oral statement is intended to complement and amplify the testimony presented before this committee on May 16 by my Department of State colleague. I have tried to focus my remarks on the works of Iraq's 661 Committee, problems associated with the pricing of Iraqi oil exports, oil smuggling, flights, ferry service and multiple efforts in which we and the British engaged during the life of the sanctions regime on Iraq to compel member state compliance. In addition, I stand ready to respond to questions that you and other committee members may pose on these and other related issues concerning sanctions on Iraq and the Oil-for-Food Program.

Mr. Chairman, you and the committee members will recall the Security Council, through the adoption of Resolution 661, acted to impose comprehensive trade and financial sanctions against the former Iraqi regime 4 days after Iraq invaded Kuwait in August 1990. The U.S. Government supported this measure as part of a larger strategy to force Iraq to cease hostilities and to withdraw its forces from Kuwait.

At the end of the Gulf War in 1991, the Security Council adopted Resolution 687 that extended comprehensive sanctions on Iraq to ensure that Saddam Hussein complied with major provisions of the cease-fire. By retaining the sanctions, the Council also sought to deny Iraq the capability of rearming or reconstituting its weapons of mass destruction and other military programs.

Mr. Chairman, the sanctions were not anticipated to remain in place for more than a year or 2 before Saddam complied. However, we now know that Saddam chose not to comply. By 1995, in the wake of deteriorating humanitarian conditions in Iraq, many in the international community called for an end to the restrictions, reflecting concern that the impact of sanctions was being borne by innocent Iraqi people.

As my colleague Mr. Anderson noted in his testimony on May 16, it was against this backdrop that the Security Council adopted Resolution 986 in April 1995, thereby establishing the Oil-for-Food Program. The program was intended to alleviate the serious humanitarian crisis under way in Iraq while maintaining comprehensive restrictive measures to deny Saddam access to items that he could then use to pose a threat to the international community. The Sanctions Committee that was established under Resolution 661, known as the 661 Committee, was tasked by the Council with monitoring implementation of the overall sanctions regime on Iraq

and after the Council's adoption of Resolution 986 with monitoring implementation of the Oil-for-Food Program.

In addition, the 661 Committee, through each of its members, also was responsible for reviewing humanitarian contracts, oil spare parts contracts and oil pricing submitted on a regular basis by Iraq's State Oil Marketing Organization for approval. The United States delegation was an active participant in all such reviews.

Mr. Chairman, the 661 Committee, like all Security Council sanctions committees, operated as a subsidiary body of the Security Council. However, unlike the Council, decisions were made on a consensus basis, requiring agreement of all parties and all members. The efforts of the U.S. and United Kingdom to counter or address noncompliance often were negated by other members' desires to ease sanctions on Iraq. The fundamental political disagreements between members over the Council's imposition of comprehensive sanctions often was exacerbated by the actions of key member states in advancing self-serving national economic objectives. The atmosphere in the committee, particularly the program involved in the late 1990's, became increasingly contentious.

In retrospect, although a consensus rule often stymied progress in the committee, that same consensus rule helped the U.S. Achieve its objectives in a number of critical ways.

In previous testimony before other congressional committees investigating Oil-for-Food matters, I have tried to delineate the various ways in which Saddam Hussein attempted to undermine and subvert the comprehensive sanctions regime imposed under Resolution 661. Specifically, I referred to what I describe as a pull-down menu of manipulative mechanisms that Saddam employed to circumvent the sanctions. They included surcharges, topping off of oil loadings, influence peddling, product substitution, product diversions, phony service contracts, phantom spare parts, shell corporations, illusory performance bonds, hidden bank accounts and plain old-fashioned bribery and kickbacks to the tune of millions of dollars.

Saddam cleverly exploited these avenues for noncompliance by granting oil and humanitarian supply contracts to those willing to bend the rules in Iraq's favor. So when the United States and United Kingdom attempted to institute an oil pricing policy in the 661 Committee, a policy which came to be known as retroactive pricing, that was aimed at reducing or eliminating unauthorized excess charges being imposed by the Iraqi Government on oil exports contracts, certain 661 Committee members then strongly resisted our efforts. In that instance, we were able to use the consensus rule to our advantage to withhold our consent to oil prices proposed at the beginning of each month by Iraq's State Oil Marketing Organization until we were able at the end of the month to determine whether the proposed prices reflected fair market value in comparison with other comparable crude oils. By all accounts, our strategy succeeded in greatly reducing oil premiums from 50 cents per barrel to about 5 cents per barrel, thereby reducing the involvement of oil middlemen who, according to the overseers, contributed nothing to Iraq's oil export efforts under the Oil-for-Food Program.

Mr. Chairman, 661 Committee members with strong economic interests in Iraq used numerous tactics, both procedural and substantive, to delay or oppose our attempts in coordination with the British to achieve widespread compliance with the sanctions.

The combined efforts of Saddam to evade sanctions coupled with the willing acquiescence of certain governments to permit unauthorized deviation from the measures made it increasingly difficult for the United States and United Kingdom to maintain the effectiveness of the restrictions despite our best efforts. Much of what the U.S. could and could not achieve with regard to monitoring the Oil-for-Food Program and implementing the sanctions was directly related to the political situation surrounding the contentious issue of Iraq and the Security Council and the 661 Committee. Our efforts to keep the comprehensive sanctions regime in place for as long as we did from August 1990 until May 2003, despite its inevitable weakening, far exceeded the expectations of policymakers at the time the restrictions were first imposed.

In the time remaining, I would like to cite three examples of the types of problems we and the British faced in our dealings with the 661 Committee. One situation we attempted to correct, only to be met with stiff resistance from other committee members, involved the unauthorized flow of oil through the Iraq-Syria pipeline, a violation we repeatedly criticized both in our public statements and in our discussions with other Security Council and 661 Committee members. During an October 2002 meeting of the 661 Committee, we requested an explanation as to the apparent discrepancies between the amount of oil Syria produced domestically, the amount consumed domestically, and the total annual volume of oil that Syria exported. The Syrian representative, a member at the time of the 661 Committee, supported from other delegations, questioned the reliability of the figures we quoted, which we had drawn from publicly available oil industry publications. Another delegation seeking to deflect focus from Syria suggested the committee's work would be more effective if alleged sanctions violations were not considered singularly and in isolation but were viewed in the relative context of other reports of noncompliance.

A second example to which I would draw your attention involved the use of ferries traveling from the United Arab Emirates to and from Iraq, ostensibly authorized only to transport passengers and their immediate possessions and not commercial goods. In a series of 661 Committee meetings, we and the British objected to giving permission to the governments of Bahrain, Oman and Qatar to initiate their own ferry service to Iraq unless and until the illegal practices of the ferries operating from UAE first were stopped. We specifically took such action because several successive briefings to the committee by the Commander of the multinational Maritime Interception Force, which I will refer to as the MIF, operating in the Gulf, confirmed with photographic evidence that commercial goods and supplies were being loaded onto ferries in the UAE in direct violation of previously agreed committee rules governing ferry service. Other 661 Committee members severely criticized the U.S. and British for linking our decision to block committee approval of ferry service from other Gulf states to the ongoing problems associated with ferry service from the UAE to Iraq. However,

we maintained our opposition to the new ferry service and required that steps be taken to compel the government of the UAE to exercise greater control over ferries departing from its ports to Iraq.

A third issue that merits your consideration, Mr. Chairman, on which I would offer brief comments, concerns flights to Iraq during the time the multilateral sanctions were in force. It was the consistent position of the United States, with support from the United Kingdom, that Resolution 661 prohibited flights to and from Iraq unless they were carrying food, medicine or other essential humanitarian needs and that, as per paragraph 4 of Resolution 670, which the Security Council adopted on September 25, 1990, the 661 Committee authorized each specific flight on a case-by-case basis.

A number of Security Council and 661 Committee members, among them France, China and Russia, took the position that member states only were obligated to provide 661 Committee members with prior written notification. Unlike other 661 Committee members, with the exception of the British, the United States delegation reviewed each flight request, including cargo lists and flight manifests, before granting its approval. Our aim was to prevent Saddam from getting access to possible dual use and weapons of mass destruction items.

Finally, Mr. Chairman, concerning the oil voucher program established by Saddam allegedly to award individual groups and entities who helped the Iraqi regime, I would like to offer two brief observations: First, knowing now of the existence of such a program, in retrospect, possibly helps to explain why certain members of the Security Council and the 661 Committee fought so strenuously with the U.S. and British to abandon our retroactive oil pricing policy to release our holds on what amounted in the spring of 2002 to \$5.4 billion in humanitarian goods contracts and generally to ease the restrictive measures against Iraq; and had we and the British known at the time of Saddam's effort to influence individual groups and other governments by means of an institutionalized secret oil allocation program, we likely would have considered other strategies to address sanctions, noncompliance and the apparent influence peddling in which Saddam was extensively engaged.

I have limited the length of my formal statement in order to permit additional time for questions for you and the other committee members. I know you are aware there are some limitations as to what I can say in an open briefing. I will attempt to answer all of your questions within the confines of U.S. Law limiting public dissemination of classified material. Should you and the other committee members seek additional information pertaining to classified material that might require a closed session, I stand ready to provide you whatever details in whatever form you may desire.

Mr. Chairman, I thank you for the opportunity to appear before you today, and I am happy to answer any questions.

[The prepared statement of Thomas A. Schweich follows:]

PREPARED STATEMENT OF THOMAS A. SCHWEICH, CHIEF OF STAFF, U.S. MISSION TO THE UNITED NATIONS, U.S. DEPARTMENT OF STATE

Mr. Chairman, distinguished members of the Committee, I am pleased to appear before you today to assist in your ongoing assessment of the multilateral sanctions regime previously imposed on the former Iraqi Government from 1990 to 2003, and,

specifically, your focus on the UN Oil-for-Food (OFF) Program which was established by the UN Security Council to alleviate the humanitarian consequences of these sanctions on the people of Iraq.

Mr. Chairman, my brief oral statement is intended to complement and amplify the testimony presented before this Committee on May 16 by my Department of State colleague, Gerald Anderson. I have tried to focus my remarks on the work of the Iraq Sanctions "661" Committee, problems associated with the pricing of Iraqi oil exports, oil smuggling, flights, ferry service, and the multiple efforts in which we and the British engaged during the life of the sanctions regime on Iraq to compel Member State compliance. In addition, Mr. Chairman, I stand ready to respond to questions that you and other Committee members may pose on these and other related issues concerning sanctions on Iraq and the Oil-for-Food Program.

Mr. Chairman, you and the other Committee members will recall that the Security Council, through the adoption of Resolution 661, acted to impose comprehensive trade and financial sanctions against the former Iraqi regime four days after Iraq invaded Kuwait in early August 1990. The United States government supported this measure as part of a larger strategy to force Iraq to cease hostilities and to withdraw its forces from Kuwait.

At the end of the Gulf War in 1991, the Security Council adopted Resolution 687 that extended comprehensive sanctions on Iraq to ensure that Saddam Hussein complied with the major provisions of the ceasefire. By retaining the sanctions, the Council also sought to deny Iraq the capability of rearming or constituting its weapons of mass destruction and other military programs.

Mr. Chairman, the sanctions were not anticipated to remain in place for more than a year or two before Saddam complied. However, we now know that Saddam chose not to comply. By 1995, in the wake of deteriorating humanitarian conditions in Iraq, many in the international community called for an end to the restrictions, reflecting concern that the impact of the sanctions was being borne primarily by the innocent Iraqi civilian population.

As my colleague, Mr. Anderson, noted in his testimony on May 16, it was against this backdrop that the Security Council adopted Resolution 986 in April 1995, thereby establishing the Oil-for-Food (OFF) Program. The Program was intended to alleviate the serious humanitarian crisis underway in Iraq while maintaining comprehensive restrictive measures to deny Saddam access to items that he could use to again pose a threat to the international community.

The sanctions committee that was established under Resolution 661, known as the "661 Committee," was tasked by the Council with monitoring implementation of the overall sanctions regime on Iraq, and, after the Council's adoption of Resolution 986, with monitoring implementation of the Oil-for-Food Program.

In addition, the 661 Committee, through each of its members, also was responsible for reviewing humanitarian contracts, oil spare parts contracts, and oil pricing submitted on a regular basis by Iraq's State Oil Marketing Organization (SOMO) for approval. The United States delegation was an active participant in all such reviews.

Mr. Chairman, the 661 Committee, like all Security Council sanctions committees, operated as a subsidiary body of the Security Council. However, unlike the Council, decisions were made on a consensus basis, requiring the agreement of all parties and members. The efforts of the U.S. and the United Kingdom to counter or address non-compliance often were negated by other members' desires to ease sanctions on Iraq. The fundamental political disagreement between members over the Council's imposition of comprehensive sanctions often was exacerbated by the actions of certain key Member States in advancing self-serving national economic objectives. The atmosphere in the Committee, particularly as the Program evolved during the late 1990s, became increasingly contentious.

In retrospect, although the consensus rule often stymied progress in the Committee, that same consensus rule helped the U.S. achieve its objectives in a number of critical ways.

In previous testimony before other Congressional committees investigating Oil-for-Food matters, I have tried to delineate the various ways in which Saddam Hussein attempted to undermine and subvert the comprehensive sanctions imposed under Resolution 661 (1990). Specifically, I referred to what I described as a "pull-down menu" of manipulative mechanisms that Saddam employed to circumvent the sanctions. These included surcharges, the topping off of oil loadings, influence peddling, product substitution, product diversion, phony service contracts, phantom spare parts, shell corporations, illusory performance bonds, hidden bank accounts, and plain old-fashioned bribery and kickbacks involving millions of dollars.

Saddam cleverly exploited these avenues for non-compliance by granting oil and humanitarian supply contracts to those willing to bend the rules in Iraq's favor. So

when, for example the United States and the United Kingdom attempted to institute an oil pricing policy in the 661 Committee, a policy which became known as "retroactive pricing," that was aimed at reducing or eliminating unauthorized excess charges being imposed by the Iraqi Government on oil export contracts, certain 661 Committee members strongly resisted our efforts. In that instance, we were able to use the consensus rule of the 661 Committee to our advantage to withhold our consent to oil prices proposed at the beginning of each month by Iraq's State Oil Marketing Organization (SOMO), until we were able at the end of the month to determine whether the proposed prices reflected "fair market value" in comparison with other comparable crude oils. By all accounts, our strategy succeeded in greatly reducing oil surcharges from fifty cents per barrel to about five cents per barrel, thereby reducing the involvement of oil middlemen who, according to the UN Oil Overseers, contributed nothing to Iraq's oil export efforts under the Oil-for-Food Program.

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The combined efforts by Saddam to evade sanctions, coupled with the willing acquiescence of certain governments to permit unauthorized deviation from the measures, made it increasingly difficult for the United States and the United Kingdom to maintain the effectiveness of the restrictions, despite our best efforts. Much of what the U.S. could and could not achieve with regard to monitoring the Oil-for-Food Program and implementing the sanctions was directly related to the political situation surrounding the contentious issue of Iraq in the Security Council and in the 661 Committee. Our efforts to keep the comprehensive sanctions regime in place for as long as we did, from August 1990 until May 2003, despite its inevitable weakening, far exceeded the expectations of policymakers at the time the restrictions first were imposed.

Mr. Chairman, in the time remaining for my prepared testimony, I would like to cite three examples of the types of problems we and the British faced in our dealings in the 661 Committee. One situation we attempted to correct, only to be met with stiff resistance from other Committee members, involved the unauthorized flow of oil through the Iraq-Syria pipeline, a violation we repeatedly criticized both in our public statements and in our discussions with other Security Council and 661 Committee members. During an October 2002 meeting of the 661 Committee, we requested an explanation as to the apparent discrepancies between the amount of oil Syria produced domestically, the amount it consumed domestically, and the total annual volume of oil that Syria exported. The Syrian representative, a member at the time of the 661 Committee, with support from other delegations, questioned the reliability of the figures we quoted, which we had drawn from publicly available oil industry publications. Another delegation, seeking to deflect the focus on Syria, suggested the Committee's work would be more effective if alleged sanctions violations were not considered singularly and in isolation, but rather were viewed in the relative context of other reports of non-compliance.

A second example to which I would draw your attention involved the use of ferries traveling from the United Arab Emirates to and from Iraq, ostensibly authorized only to transport passengers and their immediate possessions, not commercial goods. In a series of 661 Committee meetings, we and the British repeatedly objected to giving permission to the governments of Bahrain, Oman and Qatar to initiate their own ferry service to Iraq unless and until the illegal practices of the ferries operating from the UAE first were stopped. We specifically took such action because several successive briefings to Committee members by the Commander of the Multinational Maritime Interception Force (MIF), operating in the Persian Gulf, confirmed with photographic evidence that commercial goods and supplies were being loaded onto ferries in the UAE in direct violation of previously agreed Committee rules governing ferry service. Other 661 Committee members severely criticized us and the British for linking our decision to block Committee approval of ferry service from other Gulf States to the ongoing problems associated with ferry service from the UAE to Iraq. However, we maintained our opposition to new ferry service and requested that steps be taken to compel the government of the UAE to exercise greater control over ferries departing from its ports to Iraq.

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tember 25, 1990, the 661 Committee authorized each specific flight on a case-by-case basis.

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Finally, Mr. Chairman, concerning the oil voucher program established by Saddam allegedly to reward those individuals, groups, and entities who had helped the Iraqi regime, I would like to offer two observations:

a) knowing now of the existence of such a program, in retrospect, possibly helps to explain why certain members of the Security Council and the 661 Committee fought so strenuously with us and the British to abandon our retroactive oil pricing policy, to release our holds on what amounted by the Spring of 2002 to 5.4 billion dollars in humanitarian goods contracts, and generally to ease the restrictive measures against Iraq; and,

b) had we and the British known at the time of Saddam's efforts to influence individuals, groups, and other governments by means of an institutionalized, secret oil allocation program, we likely would have considered other strategies to address sanctions non-compliance and the apparent influence-peddling in which Saddam was extensively engaged.

Mr. Chairman, I have intentionally limited the length of my formal statement in order to permit additional time for questions from you and the other Committee members. I know you are aware that there are some limitations as to what I can say in an open briefing. I will attempt to answer all your questions within the confines of U.S. law limiting public dissemination of classified material. Should you and other Committee members seek additional information pertaining to classified material that might require a closed hearing, I stand ready to provide you with whatever details you may desire.

Mr. Chairman, thank you for the opportunity of appearing before the Committee today. I am happy to answer your questions.

Mr. WHITFIELD. Thank you. It is our intention to go into executive session after everyone has had an opportunity to ask questions.

First of all, how long have you been the U.N. Chief of Staff?

Mr. SCHWEICH. Mr. Chairman, 1 year.

Mr. WHITFIELD. And Resolution 986 was passed in April 1995 and that established the Oil-for-Food Program, is that correct?

Mr. SCHWEICH. That's correct, Mr. Chairman.

Mr. WHITFIELD. When did the U.S. first become aware that Iraq was generating illegal surcharges on oil contracts under the program?

Mr. SCHWEICH. There were rumors in the summer of 2000, but they gained a critical mass around November of 2000.

Mr. WHITFIELD. At that time how much of a premium were the purchasers making on each barrel of Iraqi oil sold under the program?

Mr. SCHWEICH. It varied substantially but the premium varied from 20 to 70 cents per barrel, with the average being closer to 35 to 55 cents per barrel.

Mr. WHITFIELD. What was typical in the oil industry?

Mr. SCHWEICH. 5 cents per barrel.

Mr. WHITFIELD. So that is quite a spread there. Did the U.N. oil overseers consider these premiums to be excessive?

Mr. SCHWEICH. Yes, they did.

Mr. WHITFIELD. And how were these oil purchasers under the program able to obtain such huge premiums?

Mr. SCHWEICH. The arrangement for pricing was made with the oil overseers in connection with the oil organization in Iraq and they would try to set prices very low so that there would be an excessive premium and charge a kickback or a surcharge.

Mr. WHITFIELD. So we are clear, these excessive premiums are monies that should have gone into the Oil-for-Food Program to assist the Iraqi people, is that right?

Mr. SCHWEICH. Yes.

Mr. WHITFIELD. When the U.S. first learned of these excessive programs, what steps did it take to put a stop to the premiums and when did it take these initial steps?

Mr. SCHWEICH. I have put together a brief chronology. In December of 2000, very soon after we first became aware of the excessive premium and the surcharges in particular, at the United States' request and with the support of the United Kingdom, we requested that the oil overseers issue a letter saying they should not pay a surcharge and they should be very careful and that it was illegal and contrary to U.N. resolutions.

That was the first step. There was some resistance from some countries, but we did get that letter out. At the same time, the Office of Foreign Assets Control in the Treasury Department issued a similar letter saying they should not pay a surcharge. That was the first activity that occurred.

Then in February of 2001, the United States sent a letter to the 661 Committee Chair, I think it was Ambassador Colby at the time, asking for action against the surcharges and for the oil overseers to issue a report on the surcharges. They had gone out to the field and already verified that the surcharges existed.

In March 2001, the U.S. proposed a very specific set of measures to the 661 Committee to combat the surcharges. They included more frequent pricing, mandatory lifting requirements, registration fees, contract clauses against the surcharge and related certifications to individual oil purchasers to not pay the surcharge and then a review by all the countries that were providing lists of companies that were authorized to lift oil of those companies, including proof of their creditworthiness, proof of previous involvement in oil trading, involvement in trade organizations, other things to establish the bona fides of the companies that they were legitimate oil companies.

From March to October 2001, there were over 35 661 Committee meetings and Security council meetings in which the United States aggressively asked the 661 Committee and the Security Council to take action against surcharges. So there was a very aggressive pattern in the United States and United Kingdom saying that we cannot allow these surcharges to continue, that is money right out of the pockets of the Iraqi people and going right to Saddam Hussein's palaces. There was tremendous resistance by other countries that I'm happy to discuss with you at any time.

Finally, because of the lack of progress and success in getting any sort of revision to the pricing policy or any sort of activity to increase the quality of the people or companies that were lifting the oil, we finally said that we ought to implement a policy of pricing the oil, first every 10 or 15 days and, when no one agreed to that, just retroactively.

By the fall of 2001, the United States and U.K. Were using the consensus rule to our advantage. Instead of having the oil priced at the beginning of the month, we waited until the end of the month to approve the pricing so it could be established very close to the market rate, and that prevented excessive premium, which meant that no one had the money to pay a surcharge. And that was a very effective mechanism, strongly resisted by other Security Council members because it was effectively unilateral action by the U.S. and U.K. And there was nothing else that any other country could do about it because of the consensus rule. And that had a positive effect on reducing the premium.

At the same time, the State Department also met with U.S. oil lifters, reminding them not to pay surcharges and insisting the contract clauses were put in their contracts indicating no surcharge had been paid. That is a quick summary.

Mr. WHITFIELD. Did the U.S. communicate to its principal oil companies that these surcharges were illegal as well?

Mr. SCHWEICH. Yes, in at least two letters and also in individual meetings with those companies.

Mr. WHITFIELD. You submitted a formal letter to the 661 Committee saying that this was taking place and steps needed to be taken to stop it?

Mr. SCHWEICH. That's correct. It was done several times.

Mr. WHITFIELD. You said more than 40 attempts or somewhere in that neighborhood, attempts were made to correct the situation, and was Great Britain the only country that joined the U.S. in that effort?

Mr. SCHWEICH. No. I think the Netherlands sometimes supported us and a couple of the oil overseers actually supported us as well. But by and large it was the U.S. and U.K.

Mr. WHITFIELD. But you were able to make some significant progress by going to the end of the month review of the pricing, is that correct?

Mr. SCHWEICH. That's correct. It drastically reduced the ability of companies to take advantage of the disparity between the oil price and the—the market price and the contract price. Therefore there was less money available to pay the surcharge that Saddam Hussein was demanding.

Mr. WHITFIELD. Do you know whether other countries on the 661 Committee took similar steps that the U.S. took in notifying various entities about the illegality of what was going on?

Mr. WHITFIELD. Other countries initially acquiesced in the oil overseers sending letters to all the companies that were authorized to lift oil saying they shouldn't pay a surcharge. I don't know of any direct efforts that were made by other countries, but they did permit the overseers to send the letter early in the process.

Mr. WHITFIELD. What was the primary argument for those countries that were not cooperating with Great Britain and the U.S.? What was their primary argument as to why they were not concerned about this?

Mr. SCHWEICH. They had a variety of tactics that they used. The principal one was lack of proof of the surcharges. That was a common statement that the Russians made. You have interviewed a

few people, but how do we know anybody is paying these surcharges?

Mr. WHITFIELD. Was there adequate proof of surcharges?

Mr. SCHWEICH. There was substantial proof. The oil overseers interviewed many lifters of oil who didn't want to pay the surcharge who were saying look, they are trying to make us pay the surcharge and we don't want to do it. We felt there was very, very strong evidence, and in retrospect we were correct about that.

Mr. WHITFIELD. But Russia was one country that specifically said there was no proof?

Mr. SCHWEICH. They said there was inadequate proof. They said it was up to individual countries to determine how this should be done. They claimed it was outside the scope or authority of the 661 Committee to get involved in the oil pricing market. They said coming up with standards of conduct would be very difficult and they denied that the middlemen—or middlemen said these were legitimate companies when they were proved not to be.

Mr. WHITFIELD. Did the oil overseers subsequently make any recommendation as to how the 661 Committee could reduce these excessive oil premiums?

Mr. SCHWEICH. They listened very attentively and came around to our side. In March 2002, they issued a report. They recommended two basic things, which is consistent with what I just said, more stringent selection of contract holders and measures to set the price closer to market value. And that's pretty much what we have been advocating.

Mr. WHITFIELD. But it did require unanimous agreement of all members to take action?

Mr. SCHWEICH. We simply withheld our consent to the price that had been set by the oil overseers until we had a chance to see it was a good price.

Mr. WHITFIELD. I have heard some critics of the U.S. say that the U.S. delayed a lot of so-called dual use contracts but they did nothing as far as stopping any other kinds of contracts. How would you respond to that?

Mr. SCHWEICH. This is an argument I heard with respect to the humanitarian goods, not the oil but the food and the other humanitarian goods, that we put a hold on about \$5.4 billion worth of humanitarian contracts because we were concerned that they might be concerned to reconstitute programs of weapons of mass destruction. And the criticism I have heard is that we didn't look at the pricing so that he could obtain a kickback and we didn't do much about it. And we reviewed that allegation. And first of all, there were a couple of contracts that we did reject because of pricing and there were several where we sought dual use potential but also noted that the price was way too high and could be subject to a kickback.

The problem with the 661 Committee, basically a group of people reviewing contracts paper in New York to identify an excessive price was very, very difficult. DCAA did an audit of several thousand of these contracts in 2003 and they concluded the same thing. When you look at the paper, it's hard to tell that something's overpriced, especially since Saddam Hussein often didn't just overprice the goods. He had other ways to get his kickback. For example, he

would have performance bonds issued by the selling company. Normally the selling company issues a performance bond 10 percent of the value of the contract. Then when they perform, the money is returned to the seller. Well, he would have the money returned to him.

So that wouldn't even be evident from the face of the contract. So he had a series of ways in which he could extract his kickback that were not evident from the paper that was being reviewed by the 661 Committee.

Mr. WHITFIELD. What percent of the total humanitarian contracts did the U.S. and Great Britain put a hold on?

Mr. SCHWEICH. You know, I have seen different numbers on that, Mr. Chairman. I have seen the French accused us of as high two-thirds. But if you look at the total volume, we put holds on \$5.4 billion. And there was \$40.6 billion worth of contracts actually that were submitted. I don't have a calculator here. But \$5 billion out of \$46 billion is what I would say the percentage would be.

Mr. WHITFIELD. Okay. Well, my time is about to expire, so at this point I would recognize the gentleman from Michigan Mr. Stupak.

Mr. STUPAK. Thank you, and thank you for appearing here today.

In your statement you indicated that political disagreement and self-serving national economic objectives made it difficult to address noncompliance of the sanctions by the member states. I assume you are pointing your finger at some of the countries. But didn't the U.S. also refuse to enforce sanctions against Jordan and Turkey for illegal trade with Iraq?

Mr. SCHWEICH. Congressman, I am glad you asked the question. It is true that there were substantial amounts of revenue obtained by Jordan by Saddam Hussein through Jordanian and Turkish contracts. But I would like to, if I can have a couple of minutes to walk you through how that process evolved.

Mr. STUPAK. I don't want to lose a couple of minutes. The question is really simple. Did the U.S. refuse to do the enforcement against Turkey and Jordan?

Mr. SCHWEICH. I wouldn't say that is an accurate characterization, Congressman.

Mr. STUPAK. What would you call it?

Mr. SCHWEICH. In 1990, Jordan asked for an exception under Article 50 of the U.N. Charter pointing out a severe hardship. The Secretary General said we should give them exceptional relief. Everyone on the 661 Committee pretty much acquiesced in that. They issued a note to Jordan when Jordan indicated it was resuming importation of oil—this was 5 years before the Oil-for-Food program—saying that we understand you have severe hardship here, we understand that you are in a unique situation with respect to Iraq, and so we will take note of the fact that you are continuing to import Iraqi oil, and just report to us on how much you are importing, which they did.

So I would consider this much more akin to—I don't know if you call it an exception, but an approved activity by the entire 661 Committee committee, not just the U.S. and the U.K., and something that would actually have been recommended by the United Nations. It was a geopolitical balance that had to be made.

Mr. STUPAK. But the fact is outside the program, Jordan and Turkey were allowed to trade with Iraq, which was money outside the program, and, therefore, money for Hussein. That is correct, but—

Mr. SCHWEICH. The balance was to allow the Jordanian economy to tank, and that, we thought, would create greater instability in the Middle East. And most other countries agreed with us on that.

Mr. STUPAK. What about Turkey? Did you think that would tank if you didn't allow them to have the oil?

Mr. SCHWEICH. They came in with a very good case for hardship also—that was about 5 years later—and again asked the 661 Committee for permission. In fact, under Resolution 986 they were allowed to import directly Iraqi oil.

Mr. STUPAK. But isn't it fair to say if the U.S. is going to look the other way when it comes to Jordan and Turkey for geopolitical reasons, won't that really lead to refusals by other members of the sanction committee to approve letters to such countries such as Syria, which is also engaged in illegal—

Mr. SCHWEICH. Well, Congressman, it is a totally different situation with Syria. First of all, their economy did not depend on Iraqi—

Mr. STUPAK. Wait a minute. How can it be totally different? You also said in your opening statement that if we would go in and aggressively enforce these, probably in a year or 2, you said, we could force Saddam to his knees.

Mr. SCHWEICH. Right.

Mr. STUPAK. We are going to start making exceptions, a year or two, go a little longer, right.

Mr. SCHWEICH. Actually the Jordanian protocol started in 1990, and from 1990 to 1995 Saddam experienced great hardship. And that is why the Oil-for-Food program occurred. So the exception proved to be a pretty good balance between keeping the heat on Saddam and not allowing Jordan to go under.

With respect to Syria, it was a totally different situation. They didn't come and say, we have hardship, we need the Iraqi oil. They denied the whole time that they were importing any Iraqi oil. They said they were testing the pipeline. It was a situation of total corruption, whereas Jordan came to us totally honestly, got an authorized exception from the entire Security Council.

Mr. STUPAK. But look at your exhibit book there, number 25 J, which is the second to last article in the book.

Kuwait complained to the United States in 1998 about massive smuggling. And it is—going to go to the last tab, 25, second to last article. And if you look at that on the second page, Kuwait was upset about this, and this is December 11, 1998. Top paragraph says, along with increased airstrikes, that is what Kuwait was asking us to do, he called for retooling of the oil-for-aid program that would put food distribution squarely in the hands of U.N. Officials through independent distribution centers. He also wanted stronger enforcement by the U.S. with or without the U.N. To limit oil smuggling between Iraq and Iran, Turkey and Jordan. I mean, there was—we moved some sales, but over and above that there was illegal activity going on that we knew about back in 1998, and no one did anything about it.

Mr. SCHWEICH. Well, I would agree with you that independent of the actual contractual protocols between the government, there was smuggling by private organizations that we objected to. And, in fact, in Resolution 1284 and with our smart sanctions resolution, which was blocked, we did attempt to reduce that.

Mr. STUPAK. Well, if you take a look at it, Mr. Duelfer in his report found that this illegal trade with Jordan was the key to Saddam's financial survival until the Oil-for-Food program was implemented; isn't that correct?

Mr. SCHWEICH. He made a comment that smuggling in general did help Saddam Hussein, that is correct.

Mr. STUPAK. If we were to vigorously enforce these sanctions, why did it take the Security Council so long to take steps to legalize this trade with Turkey I am talking about? You know, why didn't the Security Council take steps to legalize this trade and bring them within the program?

I would think with Turkey, Syria, Iran, Jordan, if you got illegal smuggling going on, you know it. You have approved contracts going on for geopolitical reasons, as you said. Why not bring all of that transaction within the Oil-for-Food program where you could have some control over it?

Mr. SCHWEICH. That is a very good question. This was something that was discussed extensively within the U.S. Government at the time. The perception was, I think, that the program was stretched so thin with resources, people, and that basically since everyone had pretty much agreed that Jordan and Turkey could constitute exceptions, there simply wasn't an appetite among the 661 Committee members to add that significant additional responsibility because they felt it was working adequately well the way it was.

I know that is not a perfect answer, but these people were stretched very thin. They were viewing 36,000 oil contracts—36,000 food contracts, 2,000 oil contracts, and adding the entire Jordanian and Turkish protocols on would be very, very difficult.

Mr. STUPAK. So seriously and basically that the members of 661 Committee went through and decided, well, even though we know they are trading illegally, we are not going to enforce it because it would be too much of a burden on trying to get it done.

Mr. SCHWEICH. Well, Congressman—

Mr. STUPAK. I went all the way through these minutes, and we didn't see anything like that at all.

Mr. SCHWEICH. Well, Congressman, I would characterize it a little bit differently. I would say that people didn't want to address it because they felt that the exception that was granted in 1990 to Jordan was adequate, and the same situation roughly occurred with Turkey. I wouldn't say it was discussed in the 661 Committee so much as within the governments that were very concerned about it.

Mr. STUPAK. I don't disagree in 1990, if you want to make an exception for geopolitical reasons, fine. But over and above there was illegal smuggling, I think Jordan was like \$4.3 billion alone, why didn't you bring that under the program to get some control?

Mr. SCHWEICH. Will with—if we are going to distinguish between the protocols, government-to-government protocols, that is where most of the \$4.4 billion came from. The smuggling that you are

talking about, I think, was about \$1.5 billion, according to Duelfer. We did make extensive efforts to try to stop that. The whole smart sanctions regime that was rejected by the Security Council, 661 Committee, was an attempt to have more stringent border controls and more stringent efforts to stop individual or private smuggling that went on, and we were unable to get that pushed through.

Mr. STUPAK. I think you answered this, but let me ask it again. Did you find in the Duelfer report that this illegal trade with Jordan was the key to Saddam's financial survival until the Oil-for-Food program was implemented?

Mr. SCHWEICH. Congressman, I believe that is the way Mr. Duelfer characterized that.

Mr. STUPAK. Do you believe that?

Mr. SCHWEICH. I don't, no.

Mr. STUPAK. You know?

Mr. SCHWEICH. No.

Mr. STUPAK. When we talk about enforcing these sanctions, you mentioned at the end—and you are summarizing, the oil through Syria, you said the ferry service was a concern; flights to Iraq, you are trying to control that. How then does like the CEO of Coastal Oil Company get on an airplane and fly to Iraq during the time that you are trying to enforce these flights? I mean, couldn't the U.S. even stop that?

Mr. SCHWEICH. Well, that was a very difficult situation. Resolution 670 specifically says there needs to be approval for flights to go into Iraq and not noticed. But several of the other 661 Committee members, including the French, the Russians and the Chinese, said no, it was simply a notification rule. So as long as we notify you, there is no way to stop it. You can go in.

Our position was we really did need to look at who was on the flight and what the purpose was. There was a tremendous conflict that spanned several years over that issue.

Mr. STUPAK. Well, how about—during this time, you know, most of that oil, illegally traded oil that had surcharge, ended up at U.S. refineries, right?

Mr. SCHWEICH. That is correct.

Mr. SCHWEICH. What did the U.S. do to crack down on U.S. refineries to not accept illegally traded oil from Iraq?

Mr. SCHWEICH. Well, it was a very difficult process, because these were not companies generally that lifted the oil directly from Iraq and paid the surcharge. These were companies that bought them in resale, second- or third- or fourth-generation resale.

Mr. STUPAK. You knew—when the oil came to refinery, you knew where it came from if it was Basra light; correct?

Mr. SCHWEICH. That is correct.

Mr. STUPAK. Is this Iranian oil? They would say no, no, no; this is Basra light crude. They knew that when it came to the U.S.

Mr. SCHWEICH. Yes.

Mr. STUPAK. Why didn't the U.S. turn back the shipments?

Mr. SCHWEICH. Well, there weren't surcharges. A lot of companies refused to pay surcharges. It was a mixed bag. There was not a surcharge on every barrel of oil. One of the reports, I don't remember if it was Duelfer or one of the ones we referred to, said about a third of their contracts had surcharges paid on them.

So what the U.S. did was insist there were contract clauses and notifications saying there was no surplus paid on oil that came in from Iraq. We know now, at least if we believe what is in the indictment that the Justice Department recently issued, that Bay Oil was paying surcharges, if that is correct. And I believe in innocence until proven guilty, but they have built a pretty good case laid out in that indictment. So we know of one U.S. company was paying surcharges, but we really don't know of any other.

Mr. STUPAK. Well, we know of a couple more, because we realized two ships that the MIF force had taken and held up, that was part U.S., Soviet and other companies all involved in that ship; isn't that correct?

Mr. SCHWEICH. I am not sure which one you are referring to, Congressman.

Mr. STUPAK. I will get it for you.

Mr. WHITFIELD. The gentleman's time has expired. We will have a second round.

At this time, I recognize the chairman of the committee, Mr. Barton of Texas.

Chairman BARTON. Thank you. Thank you, Mr. Whitfield. If Mr. Stupak needs some of my time, I will be happy to yield it to him when he gets the information he was just asking about.

My first question to you, sir, does the name Michel Tellings ring a bell with you?

Mr. SCHWEICH. Yes, Mr. Chairman.

Chairman BARTON. Do you have an opinion as to why the U.N. And Paul Volcker doesn't want him to testify before our committee?

Mr. SCHWEICH. Yes, Mr. Chairman, I have extensive interface with the Volcker people. I am sort of the main guy they go to—at the U.S. mission they go to when they have questions and things.

I think the position they have taken, and I am not endorsing it or not endorsing it, is that they have been given a grant of immunity by the United Nations so that they can conduct a thorough investigation without any outside interference; that it is better for them to get to the bottom of issues without exposing their witnesses and the issues they are investigating until it is over so they don't tip off witnesses and the like; and that they would be happy probably to make people available after they are done, but not during the course of their investigation. I think that is the position they have given to me.

Chairman BARTON. It is my understanding that Mr. Tellings is willing to testify. He is not asking to be shielded from this committee.

Mr. SCHWEICH. Yes. That same issue came up with Mr. Parton, who, as you know, has given documents to Chairman Hyde in his investigation. And the position that the United Nations has taken is that immunity that is enjoyed is not by an individual, but by the organization, and that can only be asserted or relinquished by that organization.

Chairman BARTON. Well, I take umbrage at that. I believe that the House of Representatives and the U.S. Senate is a co-equal branch of government under the Constitution, and that since it is the House and the Senate that are appropriating the funds that we send to the United Nations, that when we have a legitimate need

for information, that our—I understand that Mr. Volcker is not representing the United States, that he has been appointed by the U.N. To chair this committee, but at least the intent of that committee is to get the facts on the table, and that it is my opinion that Mr. Volcker's committee should cooperate with the committees of the House and the Senate that are conducting the investigations.

And it just is beyond me why we have a witness who has been interviewed by committee staff and is willing—I won't say he is volunteering to testify, but he is willing to testify—he is not a U.S. citizen, he is a Dutch citizen, as it turns out—is not allowed to. That tells me that Mr. Volcker is engaged in a cover-up and that there is something that this witness has that he could tell in public that the Volcker Commission and the U.N. Doesn't want to be made public.

Mr. SCHWEICH. Well, Mr. Chairman, as you know, both legislation in the House of Representatives and in our own reform package that we are advocating at the U.S. mission and at the State Department, we are advocating that if there are allegations of misconduct, that waiver of immunity ought to be virtually automatic. So we are fairly sympathetic to your position, and they want those enforced, but at this point the U.N. Has asserted it has confidentiality agreements, and they want those enforced.

I may—I might add that when I first took over this job a year ago as Jack Danforth's Chief of Staff—when he was the U.N. Ambassador, he met with Chairman Volcker and Secretary General Annan and said, you know, when they are in a situation like this, when there are allegations flying everywhere, being open is always the best possible route.

So I can't dispute what you are saying at the same time our argument—I do understand their argument that we want to get our investigation done without tipping out witnesses as to what people might be saying and the like, and, therefore, we would rather wait until it is over to make public statements. I think that is the balancing that has to be done.

Chairman BARTON. I think it is a fair statement that—again, I am not putting Mr. Volcker in this camp—but the leadership of the United Nations would rather this investigation by the U.S. Congress just go away. They would rather it not be going on at all. Isn't that a fair statement?

Mr. SCHWEICH. I can't speak for them, Mr. Chairman, but I also wouldn't dispute what you are saying.

Chairman BARTON. Well, had Mr. Tellings been allowed to testify, it is my understanding, based on staff notes from the interviews that he did have on two occasions, once by telephone and once in person, that he tried to bring to the attention of the 661 Committee that many of these oil traders that were being picked to trade the oil, the Iraqi oil, had no previous background in oil trading, that they appeared to be politically motivated, or Iraqi foreign policy motivated contacts. Would you dispute that?

Mr. SCHWEICH. I think that, Mr. Chairman, is exactly correct. The U.S. had that view. I think that oil overseers had that view. One of the principal proposals, before we had to go to retroactive pricing, was to squeeze out some of the middlemen and the people who did not have any experience in that oil industry.

Chairman BARTON. It is also my understanding that had Mr. Volcker allowed Mr. Tellings to testify, that he would have testified under oath in public that when he, Mr. Tellings, brought some of his concerns to Mr. Benon Sevan's attention—and he was the individual charged with running the program, who, as it turns out, appeared on a list of Hussein's as a person getting personal vouchers—that when he brought this to Benon Sevan's attention, Mr. Sevan told him to not rock the boat, that things were going along swimmingly, and he should just leave it alone.

Would you dispute that?

Mr. SCHWEICH. Mr. Chairman, I am not aware of any communications that occurred between Mr. Sevan and Mr. Tellings.

Chairman BARTON. Are you aware that this Mr. Sevan has since been suspended by the United Nations, and that there is shock and amazement that has been expressed that Mr. Sevan may have been involved in some of these trades, although Mr. Sevan publicly says that he hasn't been?

Mr. SCHWEICH. Yes, Mr. Chairman. I believe in the first Volcker report they outline in quite a bit of detail what they believe to be the factual situation regarding the allocations that he received.

Chairman BARTON. Okay. You may have said this in your opening statement, but just for the record, once again, which members of the 661 Committee—and my understanding is the 661 Committee was made up of representatives of the permanent members of this U.N. Security Council; is that correct?

Mr. SCHWEICH. The permanent members and also representatives of the 10 nonpermanent members. So there were 15 members, yes.

Chairman BARTON. So whoever happened to be on the U.N. Security Council had a representative on this committee.

Mr. SCHWEICH. That's correct, Mr. Chairman.

Chairman BARTON. Which one of those members routinely tried to thwart the intent of the program?

Mr. SCHWEICH. I would say—and I would like to caveat this briefly by saying that it's a delicate situation I am in because I negotiate with these countries every day on these issues, including U.N. Reform, and I wanted to put on the record that they have been much more cooperative with us lately on a reform efforts. But if we go back a few years, it was pretty much Russia, China and France.

Chairman BARTON. Russia, China and France.

Mr. SCHWEICH. That's correct.

Chairman BARTON. So staff information is that the United States representative and Great Britain's representatives, as the program was implemented, would invariably point out flaws in the implementation of the program, and that the French and the Russians and the Chinese would try to stall or divert these inquiries to make the program in the way in which the U.S. and the British thought it should be run. Is that a fair statement?

Mr. SCHWEICH. Mr. Chairman, it wouldn't be true of all three of those countries we were discussing, but as a general matter I wouldn't dispute the characterization.

Chairman BARTON. Did at any point, either in the past or currently, U.S. officials have a reason to believe that some of these

other national representatives or officials of other nations were somehow given improper incentives or bribes or in some way bought off to prevent the proper implementation of the Oil-for-Food program?

Mr. SCHWEICH. I will defer to my experts who were on the 661 Committee, but my understanding, Mr. Chairman, is that until 2003 when an article appeared in the Alameda newspaper indicating that there was a secret oil voucher allocation program, the United States was not aware of this influence peddling that had been going on.

Chairman BARTON. So even during the implementation, when representatives of the United States and Great Britain would see flaws in the program and would try to rectify them or try to make the program run properly, and the French or the Russians or the Chinese or all or some subset of that would try to stop it, there was never any information that they were somehow improperly tainted so that they had a personal or at least a national interest in preventing the proper implementation of the program?

Mr. SCHWEICH. Mr. Chairman, the United States was aware that these countries, prior to the first Iraqi War, had significant economic interest in Iraq and had a lot of incentive to work with Iraq on economic issues. What they were not aware of was the secret oil allocation program where specific individuals were targeted and then asked to influence governments to reduce the sanctions or alleviate the sanctions on Iraq.

Chairman BARTON. My time has just expired, so my final question—in hindsight, what should the U.S. or what could the U.S. have done to insist that the program run properly as the original intent was?

Mr. SCHWEICH. Well, I think that it's more of a question—the way the program was set up, it was almost inevitable that certain things happened. When you have somebody as determined as Saddam Hussein, somebody as corrupt as he is in such a broad-based sanctions program, in retrospect it is probably too broad of a sanctions program.

What we have tried to do in subsequent sanctions programs is be much more targeted, go after specific companies or individuals or entities or geographic areas that are involved in a given country, not have something so broad and sweeping; targeted sanctions, greater use of experts. There were no humanitarian good experts, for example, to evaluate the possibility of kickbacks.

There have been a series of events that we have implemented on future sanctions programs, more streamlined, more focused, with more accountability, more oversight, too. There was inadequate auditing of the Oil-for-Food program, and we have advocated in our reform package that we are pushing now at the U.N. Much greater auditing of sanctions regimes.

Chairman BARTON. One thing that definitely should be a part of any future program is you shouldn't let the country that is being sanctioned to pick the contractors it does business with.

Mr. SCHWEICH. That's exactly right, Mr. Chairman. As you know, the reason that occurred, we tried—in 1991, we tried to set up an Oil-for-Food Program under Resolution 706 and 712 that didn't allow that. And Saddam Hussein was willing to exploit his own

people, have them suffer for 4 more years so that he could get we he needed out of that program, which was control of the contracts.

So we tried very hard not to allow that to happen. But he didn't care how many people died. He wanted to get control over them. And if it meant 4 years and thousands more years—and thousands of more deaths, that was okay with him.

Chairman BARTON. I understand.

Thank you very much, Mr. Chairman.

Mr. WHITFIELD. The gentleman from Washington is recognized for 10 minutes.

Mr. INSLEE. Thank you, Mr. Schweich. My name is Jay Inslee. I am from Seattle. From my questions, I wanted you to note several of the presumptions I have before we start.

No. 1, the chairs of the subcommittee and the committee are both honorable people and have the best intentions on this and other hearings.

Second, Saddam Hussein was a despicable monster.

Third, the U.N. Is an imperfect organization that failed to fully enforce the Oil-for-Food program; that multiple nations participated in that; and that the United States, I believe, was not sufficiently aggressive in multiple ways that I will talk about in a minute.

Now, with that said, I want to focus on the relative success or failure of the United Nations oil sanction policy on Iraq relative to other successes or failures in our government. We have found that the goal, obviously, of this sanction policy was to prevent Saddam Hussein from obtaining weapons of mass destruction to threaten our security. That was the goal of the program.

We have learned that Saddam Hussein, on the date we started hostilities, did not have, repeat, after multiple millions of dollars of looking for them, did not have weapons of mass destruction. It appears then that the United Nations program for its goal was successful. The second program that we had is that I presume that the President had a goal of telling the American people the truth about whether or not Saddam Hussein had weapons of mass destruction.

From this, can we conclude that the United Nations sanction policy was successful in its major goal of depriving Saddam Hussein of his desires of weapons of mass destruction, and that the administration's goal—and that it was therefore successful; that the administration's goal of telling the American people the truth as to whether or not he had weapons of mass destruction failed? In other words, did the U.N. Meet its goal and the administration fail in those two issues?

Mr. SCHWEICH. Congressman, I would say yes, in terms of the question of did the Oil-for-Food at least have some success, it did stop Saddam Hussein from getting weapons of mass destruction. And it had another success, which was the malnutrition rate for Iraqi children went down dramatically, and it did help feed the people. So it had two successes.

I would have to say with respect to the administration's policy on weapons of mass destruction disclosure—I am a diplomat in New York and just completely unqualified to talk about that.

Mr. INSLEE. Well, we will leave that to the conclusion of American people.

Now, is it also fair to say that the United States Government—you know, I like—we are the best country in the world, gave the world democracy, freedom of speech, freedom of religion, you know. It's a great country, but I find it a little bit difficult for us to chastise and chide, scold the rest of the world when the conclusion I have reached, just sitting in this hearing and looking at this briefing material, is that the U.S. Government, for, I would assume, legitimate reasons, on occasion turned a blind eye to known violations of the Oil-for-Food program for reasons we thought were important; for instance, allowing Jordan to buildup some oil preparatory to war, for instance, for a variety of reasons that we thought made sense to us.

But isn't it, when we do that, a little bit hard to turn around and be the scold to the rest of the world when they made decisions to violate these sanctions? Don't you think that's a little bit difficult for the United States to do?

Mr. SCHWEICH. I understand the point you are making, Congressman, but I would take two small issues with what you said. First of all, with respect to the exceptions that we allowed, they were generally agreed on by everybody that they should be allowed, not just the United States.

I am a little bit concerned about characterizing the other exceptions that other people wanted as equivalent to an open decision to allow Jordan and Turkey to import oil. We are talking about some of the things we were objecting to were kickbacks, bribes, people gaining personally, personal profiteering, not political reasons for granting an exception.

Mr. INSLEE. Are you saying that the rest of the world agreed when we let this smuggling go on in Turkey and Jordan? In fact, Kuwait complained to us and asked us to be more aggressive, didn't they?

Mr. SCHWEICH. That was over-the-border smuggling, I believe.

Mr. INSLEE. I want to make sure you understand the question. Kuwait complained to the U.S. Government that we were not sufficiently aggressive stopping cross-border transfers to Jordan and Turkey, and we failed to meet their demands; isn't that true?

Mr. SCHWEICH. I really—I don't know. I just read the Kuwait document for the first time this morning.

Mr. INSLEE. Isn't it true from 1997 when the U.S. was taking only 13 percent of the oil, being the end user, by 1999 the U.S. portion climbed to 35 percent of Iraqi oil, and by September 11th we were purchasing well over 50 percent—I think it was something like 65 percent during the Bush administration—of all the oil that came out of Iraq came to refineries in the United States; isn't that right?

Mr. SCHWEICH. That's correct. But, of course, there was nothing illegal about importing Iraqi oil. That was the purpose of the Oil-for-Food.

Mr. INSLEE. I understand that. But for this administration, the President, to sanction Iraq, if he wanted to really get serious about this in light of this fraud that you have talked about with multiple nations, could a sanction of Iraq—saying, we are cutting off oil imports to our oil refineries, period, is a sanction; I am not going to tolerate this anymore in Turkey, Jordan, Russia or the United

States. He could have done that. He didn't do that. Couldn't he have?

Mr. SCHWEICH. He could have, but I would have to say I would have thought—I think that would have been the wrong decision.

Mr. INSLEE. Well, it would have been perhaps the wrong decision because, you know, we are addicted to oil in this country, and, frankly, we are not doing anything to beat that problem. But that is not—that is outside of your jurisdiction.

I want to ask you about the conclusion from Paul Volcker—I want to read a quote to you. It's an article dated January 13, 2005, from the Financial Times of London: "Although the financial beneficiaries, Iraqis and Jordanians, the fact remains that the U.S. Government participated in a major conspiracy that violated sanctions and enriched Saddam's crony," a former U.N. Official said. "That is exactly what many in the U.S. are now accusing other countries of having done. I think it's pretty ironic."

Then Paul Volcker goes on to say—confirmed—excuse me. Last week Paul Volcker, head of the independent commission created by the U.N. To investigate failures in the Oil-for-Food Program, confirmed that Washington allowed violations of the oil sanctions by Jordan in recognition of its national interests.

Is that accurate?

Mr. SCHWEICH. I would dispute one statement that you made, which is that we were engaged in the conspiracy. Congressman, a conspiracy is something that is secret. That is the stuff we were objecting to, secret, private deals, under the table, where people are enriching themselves. The Jordanian protocol was approved—noted by the Security Council with no objection.

They even sent a report to us on how it is going, which they did. And it was done for geopolitical reasons, as I said, that were concurred on by everybody at the time. I don't think you can equate that or call that a conspiracy. When there were conspiracies going on for influence peddling, kickbacks, bribery, things that really are criminal acts, this was a decision made by the Security Council, made at the recommendation of the Secretary General—by the way, which is surprising that U.N. Officials are saying this—to allow—I don't know if you call it an exception, but to note that Jordan was doing this, recognizing it was necessary to keep the Middle East stable. And it was done for valid reasons and reasons of—that you can't call corrupt.

I mean, you might object to how it was implemented. I can't say that Jordan always followed the rules as we understood them to be, but what I would say is the overall intent of the United States, the U.K., and all the other Security Council members in allowing Jordan to import this oil was honorable and was not a conspiracy at all. It was totally open.

In fact, under the Foreign Operations Assistance Act, under three administrations, Bush 1, 8 years of Clinton Administration, and Bush 2, they—the President issued a waiver for Jordan, sent it off to Congress, published in the Federal Register. To me that is not a conspiracy.

Mr. INSLEE. But at least one country was complaining. We know Kuwait. Was anyone else complaining?

Mr. SCHWEICH. I am not aware of that.

Mr. INSLEE. Well, let me suggest to you that maybe there was reason for it, because it appears that while all this was going on, the U.S., under Bush administration policies, continued to increase its imports of Iraqi oil. I will read a quote to you, March 27, 2002:

Despite the war fever engendered by U.S. rhetoric in recent weeks, lifting of Iraqi crude by U.S. refineries have averaged some 800,000 barrels per day so far this year, and even higher in the second half of last year. While some such as Exxon Mobil have moderated their Iraqi intake, Chevron, Texaco, top independent Valero and others seemingly can't get enough of Basra blend. As Chevron doubled its intake of 172,000 BD from the first to the second half of last year when prices were low, Valero doubled its imports from 187,000 BD.

So, the fact of the matter is, there are two things I want to make sure that you think are correct. No. 1, while these concerns are being raised, we continued to substantially import more Iraqi oil, leading up to this war, and give money to Saddam Hussein.

No. 2, whatever you want to say about the United Nations Oil-for-Food program, it is not the reason that our children are dying in Iraq.

Would you agree with both of those statements?

Mr. SCHWEICH. I really can't comment on the last statement. It's way beyond, again, my area of expertise. But with respect to the increase in Iraqi oil imports, the objective of the Oil-for-Food program was to provide money for Iraqi children and for food. There was nothing inherently wrong, I think, with importing Iraqi oil. The problem was if people were importing it while they were paying illegal surcharges, kickbacks. I think I outlined to you the numerous actions we took to eliminate that.

Mr. INSLEE. Apparently those failures did not prevent the U.N. sanctions from working of preventing this scoundrel from getting WMD; is that true?

Mr. SCHWEICH. Well, that is because—there are two aspects to this program. There was the oil part of it, and then there was the importation of humanitarian goods.

What you are talking about is the second piece. We were successful about putting the holds on items of dual use in keeping weapons of mass destruction from coming in. But that's a little different from the issue you have, the oil imports.

Mr. INSLEE. Thank you.

Mr. SCHWEICH. Thank you.

Mr. WHITFIELD. The gentleman from Texas is recognized for 10 minutes.

Mr. BURGESS. Thank you, Mr. Chairman, I thank the witness for being here this morning and enduring this.

At some length we have discussed the surcharges under the Oil-for-Food and how efforts to eliminate the surcharges were resisted by various countries within the 661 Committee. Can you tell us whether this was an isolated example, or was it part of a larger pattern?

Mr. SCHWEICH. It was a larger pattern. I have outlined—and just preparing for this hearing—7 or 8 methods that these countries that were obstructing us used. They did it for a period of 2 or 3 years when it came to our attention in 2001, all the way up to

2003, 2002. I would be happy to go through them with you if you like.

They raised process objections, saying that things were not properly before the committee or beyond the mandate of the 661 Committee, like activities relative to the Multinational Maritime Interception Force, which they said we shouldn't be involved in. They said there wasn't enough evidence to take action with respect to the Syria pipeline, Iranian violation of surcharges, kickbacks.

They indicated what is being proposed in retroactive pricing would increase the suffering of the Iraqi people, so we shouldn't do it. Same thing with holds on humanitarian goods and the sanctions generally. They said the committee wasn't qualified to take action. We shouldn't be looking at oil pricing because we are not oil experts. They said that the actions would provoke Saddam to expel arms inspectors or increase smuggling. If you crack down on him, he will get even more violent, more nasty, so we shouldn't crack down on him.

They claimed that the plans wouldn't work. We heard over and over again that retroactive pricing would not be successful; it would simply reduce the amount of Iraqi oil being lifted without eliminating the surcharge. It did reduce the amount of Iraqi oil being lifted for a while, but it did help stop the surcharge.

Then we also heard what I call the "trust the bad guys" theory. We repeatedly heard people saying, well, you know, Syria says it is not doing anything wrong; we have to trust them. If the Iranians say they are not violating the sanctions, well, we ought to listen to what they have to say. I think it was a concerted lengthy process with a lot of tactics over a long period of time.

Mr. BURGESS. You have provided to us, under—what is recorded as Exhibit 17 is an e-mail. Do you have that available to you?

Mr. SCHWEICH. Yes.

Mr. BURGESS. Does this e-mail that we have been provided reflect some of these issues over which there were divisions in the 661 Committee concerning the Oil-for-Food program?

Mr. SCHWEICH. Congressman, let me just take 1 minute to look it over again.

Mr. BURGESS. Sure.

Mr. SCHWEICH. This reflects some of the issues, particularly with respect to the air flights that I mentioned in my initial statement.

Mr. BURGESS. Well, on the issue of the Syrian pipeline that you mentioned just a moment ago, what exactly was a discrepancy noted regarding Syrian oil production and exports?

Mr. SCHWEICH. Let me refer to something I wrote up here over the weekend. I think I have the statistics here one moment, if you will just give me a minute.

There was a briefing given by the U.S., which determined that based on public sources, Syria produced at that time 520,000 barrels per day of oil, domestically consumed 260,000, but its exports for that particular month had been 500,000. So if you do some simple math, 520 minus 260 are for consumption, would leave 260,000 barrels left over for export. Their actual exports were 500,000, so there was a discrepancy of 240,000 barrels.

So we asked where was that coming from. We knew it was coming from Iraq, but they repeatedly denied it. That's in marked con-

trust to Jordan and Turkey, which said, we are getting this, and we need it, we have problems. They just denied it. They said, well, we are testing the pipeline, we don't know what you are talking about. We comply with all Security Council resolutions. We were saying, well, where do you get this 240,000 barrels extra you are exporting over what you use and produce?

Mr. BURGESS. Well, could other delegations question publicly available industry data with straight faces?

Mr. SCHWEICH. They did, yes. The Russians said the figures aren't accurate. The only reliable source of information is that which comes from the Government of Syria.

Mr. BURGESS. That's how they attacked the data?

Mr. SCHWEICH. Yes.

Mr. BURGESS. With regard to the illegal ferry service for the United Arab Emirates, did the United States ever have any luck in stopping that traffic?

Mr. SCHWEICH. I don't know about the UAE. I will defer to some of my experts if you would like to talk to them in the closed session. I know that we were successful in keeping other ferries from opening with other countries. That was our principal objective.

Mr. BURGESS. Even though if we were to provide photographic evidence of something going on, it was difficult to rein that in?

Mr. SCHWEICH. Yes.

Mr. BURGESS. Was any other agency or body able to interdict any of the ferry traffic during that time?

Mr. SCHWEICH. Not that I am aware of.

Mr. BURGESS. Mr. Chairman, thank you for your indulgence. I will yield back the balance of my time.

Mr. WHITFIELD. Thank you very much.

At this time I will recognize the gentlelady from Tennessee Mrs. Blackburn.

Mrs. BLACKBURN. Thank you, Mr. Chairman.

Thank you for your patience. We appreciate you being here today.

I want to step back into the book we have got. We have mentioned a couple of times, if we can, section 25, some of the communications there. Looking at this first e-mail or the first headline is November 16, 2,000. We were talking about Iraq requiring the \$050 per barrel premium.

One of the things that is, I guess, kind of puzzling to me is looking at the leadership that was in charge of—more or less being certain that the U.N. Was abiding by the rules of the 661 Committee, was working within the framework of the resolution that put them in place. Let's see, we had Secretary Albright as Secretary of State at that point; correct?

Mr. SCHWEICH. Correct.

Mrs. BLACKBURN. So Secretary Albright was at the helm, and this was—who did we have over as our U.N. Representative at that time?

Mr. SCHWEICH. Richard Holbrooke.

Mrs. BLACKBURN. Mr. Holbrooke. All right. So we had Secretary Albright and Mr. Holbrooke that were supposed to be guiding the ship for us, more or less. How in the world could we continue to have the volume that's just in front of us today of communications

that was coming back in to us from the U.N.? And looking at articles like the November 16th and the November 21st, 2000, December 4, 2000, December 17, 2000, you know, what were these folks—what was their focus? Why were they not questioning or raising this issue? Why did it take us until 2003, 2004, 2005 to begin to realize that there was a problem here that we could not trust what we were being told by some of the members of the 661 Committee? Do you have a thought on that?

Mr. SCHWEICH. Madam Congressman, I certainly can't speak for Richard Holbrooke or Madeleine Albright, but I would note that during the time period of these articles, when the issue of the surcharge first came up, we did succeed in getting the 661 Committee to issue letters to companies and tried to stop it.

It took another 10 or 11 months before the retroactive pricing regime went in place that actually did stop it, but I would attribute most of that to the resistance we met from other countries. But I really don't know the communications that were going on at the levels that you are talking about.

Mrs. BLACKBURN. Okay. It looks like the first of those pieces of information addressing these situations where we realized we had a problem with that goes back to 1996 or 1997. So looks like they gave them plenty of time to decide they had a problem, right?

Mr. SCHWEICH. Which article are you referring to, ma'am?

Mrs. BLACKBURN. Let's see. We were going—let's see. There is one, 3/10/97.

Mr. SCHWEICH. Is that under—

Mrs. BLACKBURN. Under section 25. That is where I was looking. 3/10/97. So we have got—we have given them plenty—we gave our—Mr. Holbrooke and the State Department plenty of time to realize that there was a problem.

I do have a couple of other questions that I want to ask you about also. Go ahead and respond to that, if you would like to. Then I do have a couple of other questions.

Mr. SCHWEICH. The issue of the surcharges, I don't think, was known until 2000, but, yes, there were a lot of problems with the program from its inception that we were quite aware of, yes.

Mr. SCHWEICH. Let's go back for just a moment and talk about Mr. Sevan. You know, this is—we have had a hearing—we had a hearing back May 16th, and it seemed as if his name came up quite a bit, and questions about conduct and activities came up quite a bit. How much contact did he have with members of the 661 Committee and especially those that were resisting our U.S. efforts to—in Iraq's manipulation of the Oil-for-Food?

Mr. SCHWEICH. Well, again, I would defer to my experts, who are actually on the 661 Committee, but my understanding, Madam Congresswoman, is that since he was the head of the Office of Iraq Programs, it was his job to interface frequently with all members of the 661 Committee, and he did so.

Mrs. BLACKBURN. Okay. And we have talked a little bit about the U.K. And the Netherlands supporting the U.S., and then the opposition—you mentioned Russia, China and France pretty much led the opposition.

Mr. SCHWEICH. At various times, yes.

Mrs. BLACKBURN. At various times, okay.

Did that seem to be orchestrated, or is there anything that would lead us to believe that if they were orchestrated in those efforts?

Mr. SCHWEICH. I don't know of any specific orchestration efforts, but the general dynamic of the Security Council and the committees of the Security Council is different delegations consult with one another to determine their positions.

Mrs. BLACKBURN. Okay.

Mr. SCHWEICH. And there was sort of a pattern after a 1997 Resolution 34 where the United States was concerned about obstruction of the weapons inspectors, where a pattern seemed to emerge—sort of two against three of the permanent five, U.S., U.K. Versus Russia, France, and it wasn't true in every resolution in every case, but it was a fairly consistent pattern after 1997.

Mrs. BLACKBURN. What type tactics were used primarily by those to try to delay or oppose our attempts to achieve compliance?

Mr. SCHWEICH. It was raising procedural issues, things that are outside the mandate. It was also saying that action we are taking is going to lead to more suffering of the Iraqi people; some of the other issues that I discussed in a slightly different context with Congressman Burgess a few minutes ago.

Mrs. BLACKBURN. All right. Thank you, Mr. Chairman. I think I will yield back.

Mr. WHITFIELD. Thank you.

At this time I will recognize the gentleman Mr. Walden.

Mr. WALDEN. Thank you very much, Mr. Chairman. I appreciate your work on this very important topic.

I would like our witness to turn to tab 22 in the book. I am wondering, the exhibits 22, 23 and 24 describe an incident involving the United Nations Development Program and a Swedish company, and you are nodding as if you are familiar with these cables and the incident. And so I assume you are.

Mr. SCHWEICH. Yes, Congressman.

Mr. WALDEN. Can you explain what happened?

Mr. SCHWEICH. I would actually defer to my colleague, Andrew Hillman, who was directly involved, but I can go over it generally here.

Mr. WALDEN. If Mr. Hillman wants to come up, that's fine. I believe he is sworn in, right?

Mr. SCHWEICH. If that's okay.

Mr. WALDEN. It is fine by me, if it is okay with the chairman. As I understand, he was sworn in earlier.

Mr. WHITFIELD. Yes, he was sworn in.

Mr. WALDEN. Mr. Hillman, maybe you could explain what this is all about, because it is quite disturbing, frankly.

Mr. HILLMAN. Congressman, we received notification from the State Department in early June of 2002 that there had been a discussion that occurred in—at our embassy in Yugoslavia, in the former Yugoslavia, in Serbia, in Belgrade.

Mr. WALDEN. Could you pull that mike a little closer?

Mr. HILLMAN. And a Swedish Ambassador to the former Yugoslavia accompanied by a representative of a Swedish company told our Ambassador in Belgrade that when they applied for a contract that was under consideration for an electrical project in northern Iraq, that they had been told by a representative of the U.N. Devel-

opment Program, the U.N. Agency that was letting out the contract for consideration by various bidders, that they would have to bypass or work around U.S. export laws concerning items that may have been produced in the United States and that were prohibited from reexport.

Secondarily, it was alleged by this representative of the Swedish company that the UNDP official had advised them that they would have to pay the additional fee that the Government of Iraq had requested at roughly a 10 percent surcharge.

Mr. WALDEN. Who was this person at UNDP that allegedly made these comments?

Mr. HILLMAN. We subsequently learned that he was their representative who oversaw UNDP's work on the Iraq program.

Mr. WALDEN. And who would that be?

Mr. HILLMAN. His name is Michel Gotier, G-O-T-I-E-R.

Mr. WALDEN. G-O-T-I-E-R. He was with the U.N. Development Program.

Mr. HILLMAN. He worked for the U.N. Development Program, correct.

Mr. WALDEN. He was the one who alleged—what nationality is he?

Mr. HILLMAN. I am not sure I am familiar with his nationality, Congressman.

Mr. WALDEN. But he was the one who basically told the Swedish company basically ignore the U.S. exportation laws.

Mr. HILLMAN. Right.

Mr. WALDEN. Computers, right.

Mr. HILLMAN. Yes. Computers that were going to be used for this electrical project in northern Iraq.

Mr. WALDEN. Do you know the issues involving those computers and that law? Why would that be an issue?

Mr. HILLMAN. Congressman, I am not sure that I was fully briefed on this, other than what I was given in the instruction cable from the State Department, which, in essence, said that there were prohibitions on the reexport of these items by any company that may have been in receipt of them, based on U.S. existing legislation.

Mr. WALDEN. Because my understanding is that there is a concern that these computers are some of the higher-speed computers and could facilitate computing processes that could, in effect, not be done elsewhere or by other computers, that, in effect, could be used against us then in some terrorist way or some other way.

Mr. HILLMAN. Congressman, I am familiar that the legislation concerned possible use of items such as the ones you just described by potential terrorists, yes.

Mr. WALDEN. Now, in the cable under tab 22, number 22, and some of it seems to be redacted, but it says that an ABB—that ABB excluded the computer system because it was not authorized for reexport by the Office of Foreign Asset Control of the U.S. Department of Treasury for antiterrorism reasons. However, the ABB representative said that in early September of 2001, the UNDP representative in New York—is it Michel Gotier?

Mr. HILLMAN. Yes, Congressman.

Mr. WALDEN. Challenged the legality of the U.S. reexport law. Why would that occur?

Mr. HILLMAN. Well, I think what was challenged was the desire on the part of the—the concern on the part of ABB not to be in violation of an existing U.S. legislation concerning reexport. They were, I believe, considering the use of U.S.-produced minicomputers for this project and knew that there were these restrictions in place.

Mr. WALDEN. But why; is there any other information regarding Mr. Gotier's feelings about our reexportation law? Because it sounds like he the one who is saying that you don't have to follow this law.

Mr. HILLMAN. When we raised this issue with him, and I went to meet first with his supervisor and then subsequently with him directly, he denied that he had made any of these statements to the representative from UNDP.

Mr. WALDEN. So, is that right?

Mr. HILLMAN. Yes, Congressman.

Mr. WALDEN. What was your reaction to that?

Mr. HILLMAN. I heard—I first met with the supervisor, subsequently met with the two of them, and my sense was that I wasn't convinced that I was hearing the absolute truth on the issue.

Mr. WALDEN. Do we have any evidence, or have you had any other information, to indicate that he might have made these same comments to anyone else?

Mr. HILLMAN. No, Congressman, not that I am aware of.

Mr. WALDEN. Who was his supervisor; do you recall?

Mr. WALDEN. Only by, again, consulting the document, a gentleman by the name of Oscar Fernandez-Taranco, who also was a U.N. Development official.

Mr. WALDEN. But you didn't necessarily believe you are getting the straight story?

Mr. HILLMAN. I had some concerns and reported back—

Mr. WALDEN. Did you follow up then with the Swedish contacts?

Mr. HILLMAN. I did not. We deferred back to the State Department for further guidance and further instructions.

Mr. WALDEN. Did they follow up?

Mr. HILLMAN. I am not sure I am aware of that, Congressman. I don't have the answer.

Mr. WALDEN. You just don't know.

Mr. HILLMAN. Yes.

Mr. WALDEN. All right. Did Mr. Gotier say anything else during this meeting that you had with him and his supervisor?

Mr. HILLMAN. Well, as I say, he denied that he had encouraged ABB to circumvent our U.S. export laws, reexport laws. And he also denied that he had, in any way, shape or form, encouraged ABB to pay a surcharge, a 10 percent additional fee, to the Government of Iraq.

Mr. WALDEN. Did he ever suggest that not every company doing business under the OFF program had to abide by U.S. export laws?

Mr. HILLMAN. I believe our reporting cable makes note of this, that he alluded to the fact that not everyone was required to use U.S.-produced goods for shipment into Iraq under the Oil-for-Food

program. You could go to other suppliers from other countries to obtain some goods, if they were available.

Mr. WALDEN. So, what you are saying is he was saying they could find a different way to get in, not that they could avoid the U.S. export laws?

Mr. HILLMAN. Yes. Thank you. Thank you for clarifying that.

Mr. WALDEN. Now, why would ABB raise this as an issue and then say they weren't going to do that because they were concerned about their own contacts in the U.S. and other business that they were doing?

Mr. HILLMAN. Congressman, I can only go by the information that was provided to us in our instruction cable from the State Department. I am not sure that that was made evident to us. That is my only source of information on this issue.

Mr. WALDEN. Mr. Schweich, there are two other questions I would like to ask you. In your opening statement you said that 661 Committee members with strong economic interest used both substantive and procedural tactics to oppose U.S. Efforts to maintain sanctions. Can you explain the substantive and the procedural tactics that these countries used?

Mr. SCHWEICH. Yes. When I say procedural, I meant raising process objections; rolling things over to the next meeting; saying, we don't have time for this, let's deal with it the next meeting, the next meeting; those types of things which would be more parliamentary maneuvers to stop our activities.

When I would say substantive, they would introduce competing resolutions to defeat our resolutions to get their allies on their side. And then they would also make very specific arguments about the effect of what we wanted to do on the Iraqi people, starving them, or that it might provoke Saddam to do something. That's what I meant by that distinction.

Mr. WALDEN. I mean, were there circumstances where we had, for example, where we had photos of equipment going in violation, and countries said, that's not good enough?

Mr. SCHWEICH. Yes. I mean, I recall one situation where we showed some pictures of illegal activity going on. One of the other countries, which I will not mention right now, said, where did you get that camera lens, it is really quite good, and then dismissed totally what we had to say about it.

Mr. WALDEN. More concerned about the camera than—

Mr. SCHWEICH. They were interested in how good our spy techniques were and not really so interested in what we were saying about what they had uncovered.

Mr. WALDEN. Was that sort of a standard view?

Mr. SCHWEICH. It was—that was the only time that particular comment was made, but it was not atypical to have that sort of attitude in the 661 Committee.

Mr. WALDEN. I appreciate your testimony today.

Thank you, Mr. Chairman.

Mr. WHITFIELD. The gentleman from Florida Mr. Stearns is recognized for 10 minutes.

Mr. STEARNS. Thank you, Mr. Chairman.

You indicated in your opening statement that had the U.S. been aware of Saddam's secret oil allocation program at the time, it

would have considered any additional measures to combat this abuse. What additional steps do you think could have been taken?

Mr. SCHWEICH. I think the main additional step that could have been taken—Congressman, that's a very good question—kind of what the U.S. is doing now—we are practically the only country now—is urge prosecution of criminals who are accepting bribes, kickbacks and doing all of these illegal things.

As you know the United States Department of Justice, even though I think that the U.S. was a minimal player in any of the corruption, has already indicted two Americans on this issue. I believe there are investigations going on in Italy and also in France also that haven't led to any sort of indictments.

I think what we would have done is push for judicial and prosecutorial action against the perpetrators.

Mr. STEARNS. Do you think Russia or France or China would have done anything?

Mr. SCHWEICH. I don't know the answer to whether they would have done anything. I think they certainly could be put in a very difficult position publicly.

Mr. STEARNS. In his opening statement, Mr. Stupak stated that Iraq smuggled oil to Iran in full view of the Multi Interception Force, MIF. Was there a reason that the MIF did stop all smuggling to Iran?

Mr. SCHWEICH. It did try to stop it repeatedly. It boarded a lot of boats and actually uncovered pretty substantial evidence that the corruption that was going on—they found falsified passports, falsified documents that appeared to have been generated in Iran. They also interviewed witnesses who said that the Iranian Republican Guard, or the equivalent of that, was exacting fees for protection. That was all brought to the attention of the 661 Committee.

Mr. STEARNS. Did the MIF provide regular briefings to the 661 Committee concerning the smuggling to Iran?

Mr. SCHWEICH. Congressman, I believe twice yearly they provided briefings, which included that and other issues, yes.

Mr. STEARNS. Did the U.S. actively support measures to limit this smuggling to Iran?

Mr. SCHWEICH. Yes.

Mr. STEARNS. What were they?

Mr. SCHWEICH. One, I think we just repeatedly asked for letters to be written to the Iranian Government asking them to cease their illegal activities. In fact, I have to say, you have to give a little bit of credit where credit is due. Toward the end of the program, the Iranians, they initially said yes—they were very clever. They initially said, yes, we know there is smuggling going on, but it isn't the government; it is all private entities.

As we built up the evidence against them, they actually did reduce the amount of smuggling that went on there. We actually, I think, in a couple of 661 Committee meetings—I am not sure if it was there or elsewhere—complimented them for finally agreeing to comply. So they were no big friends of Iraq anyway. Ultimately they were somewhat helpful toward the end of the program.

Mr. STEARNS. I think you answered this. Were other member states supportive of these measures?

Mr. SCHWEICH. Not initially, no. They basically said the same thing. The Iranians were saying, well, we all knew this was going on, but this has nothing to do with the Iranian Government.

Mr. STEARNS. Perhaps this question has not been asked. The Secretary General, Kofi Annan, how much do you think he knew of a lot of what we talked about this morning?

Mr. SCHWEICH. You know, I hesitate to speculate on that, because we have talked about—

Mr. STEARNS. Well, I will ask the questions, you just answer them then.

Mr. SCHWEICH. Okay.

Mr. STEARNS. Do you think Mr. Annan was keeping up to speed with what was happening in the 661 Committee?

Mr. SCHWEICH. I would say no. He delegated most of that to Mr. Sevan, who was in charge of the program.

Mr. STEARNS. Did Mr. Sevan ever brief him on what was happening?

Mr. SCHWEICH. I don't know.

Mr. STEARNS. Would you speculate yes or no? I mean, you would think he would brief him.

Mr. SCHWEICH. You would think so.

Mr. STEARNS. And Mr. Sevan is his name.

Mr. SCHWEICH. Benan Sevan.

Mr. STEARNS. How much of what we've talked about this morning was he aware of?

Mr. SCHWEICH. He was involved. The contracts, for example, for the oil and the food went from the contract holders and the deals that were arranged by Saddam Hussein to his office and then to the 661 Committee. So he was actually responsible for transmitting the documentation to the 661 Committee. So he would be involved in everything.

Mr. STEARNS. He knew pretty much intimately what was happening?

Mr. SCHWEICH. I would defer to my experts, but I would say the answer is most likely "yes."

Mr. HILLMAN. He was the executive director of the office of the Iraq program, and in that capacity it was his job and responsibility to oversee the ongoing implementation of the program in its entirety.

Mr. STEARNS. So if you have somebody who is intimately involved and knows all the details and it turns out there is a great deal of corruption, most likely he knew about? Wouldn't you speculate that he must have known some of this corruption, just "yes" or "no."

Mr. SCHWEICH. Congressman, I spent 20 years as a trial lawyer, and I always told my witnesses not to speculate. I am sympathetic to what you are saying.

Mr. STEARNS. Okay, so he knew about the corruption. I am going to move a little further.

You have indicated he knew intimately all the details of the 661 Committee. He had oversight and was intimately involved and so he must have known about the corruption and abuse.

The next question is, did he ever brief the Secretary General? And in a normal procedure, wouldn't you think he would brief the Secretary?

Mr. SCHWEICH. I know the Secretary General has solid reporting lines throughout his organization.

Mr. STEARNS. Isn't there a line that runs from him to Sevan on this matter?

Mr. SCHWEICH. I would suspect so.

Mr. STEARNS. So there is an organizational hierarchy that goes from Sevan to Kofi Annan?

Mr. HILLMAN. I have not looked at a U.N. Organizational chart, but I know Mr. Sevan had held the title of Under Secretary General in his capacity.

Mr. STEARNS. My impression is, he would be speaking to the Secretary General on a regular basis. And if he was intimately involved and knew about the corruption, he had a moral responsibility to tell the Secretary that there are problems there.

Mr. SCHWEICH. First of all, Congressman, Under Secretary Generals generally report to the Secretary General. As a general rule, he would be the kind of person that would report to the Secretary General. Volcker has claimed that he actually got oil allocations, so that not only was he aware of things, he was participating in them. That is certainly the allegation.

Mr. STEARNS. Sevan was participating in it? So it seems inconceivable that he had not briefed Kofi Annan about some of this or that Kofi Annan tacitly knew what was going on. He was the Under Secretary and reports to Kofi Annan. I think we can assume a certain amount of this information was available to the Secretary General.

Mr. SCHWEICH. The Secretary General had available to him the information you have, which describes the issues that are going on. I wouldn't make the jump to say that he condoned or approved of any corruption.

Mr. STEARNS. Let's say it was presented to him in a matter-of-fact way that these are circumstances I don't quite understand. At this point, don't you think the Secretary General should at some point fire some people and clean house and do something?

Mr. SCHWEICH. At the time or now?

Mr. STEARNS. At the time.

Mr. SCHWEICH. I can't—

Mr. STEARNS. How about now?

Mr. SCHWEICH. He is disciplining one person already.

Mr. STEARNS. Disciplining is different than firing somebody.

Mr. SCHWEICH. I think he actually did terminate him.

Mr. STEARNS. Is Sevan still employed?

Mr. SCHWEICH. He is. There are some disciplinary proceedings pending with him.

Mr. STEARNS. If you find a scandal of this magnitude and you still keep the person involved on the payroll and you don't fire them, it doesn't seem like you are doing too much to make the program be in repair.

Mr. SCHWEICH. Well, Congressman, I am not here to defend the Secretary General. The reason he appointed Paul Volcker was to look into these issues.

Mr. STEARNS. Were many of the problems of the 661 Committee ever discussed with the Security Council?

Mr. SCHWEICH. Yes. There were meetings of the general Security Council in which these issues were discussed, several of them.

Mr. STEARNS. So all during this time from 1995, and only one or two times they talked with the Security Council?

Mr. SCHWEICH. I think it was several.

Mr. STEARNS. Do you know anything about those presentations and who gave them? Did Sevan give those presentations?

Mr. SCHWEICH. I will defer to Mr. Hillman on that.

Mr. HILLMAN. Mr. Sevan would brief the Security Council approximately every 6 months. That tied into the phases of the program of which there were 13 phases. And it was toward the end of each phase that he would update the council.

And with regard to the question you asked Mr. Schweich concerning the number of times that the Security Council may have dealt with issues similar to those discussed in the committee, frequently, when we reached an impasse in our discussions in the committee, they were brought to the Ambassador level, to the attention of the Ambassadors within the Security Council, for example, oil pricing and the dispute that occurred.

Mr. STEARNS. But even if you brief the Security Council about the 661 program, you need a unanimous consent to do anything; so nothing could be done, right? If Sevan came forward and said, These are the problems and these are the discrepancies, the Security council would say, We want to do X, Y, Z, United States and United Kingdom, but nothing could be done because you needed unanimous consent.

Mr. SCHWEICH. In the Security Council you don't need unanimous consent. You need nine votes without a veto. In the 661 Committee, you did need consensus.

Mr. STEARNS. In the Security Council, if a problem of this magnitude was brought before them, could they have acted or done anything? Were there votes there to start moving out and change this program? The Security Council is at fault here, too.

Mr. SCHWEICH. They could have acted. The P5 all had vetoes. The countries we have been talking about, that have hindered our efforts, all had a veto, but I don't think it ever got to that point.

Mr. STEARNS. Never got to the point where you had a vote where the nine votes were needed or France could veto.

I guess the question is, did the Security Council ever have this presented to them and was there a veto by any member of the Security Council as a result of the presentation of possible corruption in the Oil-for-Food program.

Mr. SCHWEICH. I am aware that when we proposed the Smart Sanctions Resolution in early 2001 to really refine the process, get the goods that needed to get in, that Russia threatened a veto. And as a result, the whole thing fell apart.

Mr. STEARNS. What year was that?

Mr. SCHWEICH. July 2001.

Mr. STEARNS. Just 30 seconds, unanimous consent. And that resulted because somebody presented to the Security Council activities on the 661 Committee which created such a donnybrook that Russia threatened a veto?

Mr. SCHWEICH. I think that's correct.

Mr. STEARNS. The information that was presented was what?

Mr. SCHWEICH. There had been criticism that the sanctions regime was falling apart and the new administration wanted to upgrade it by making it easier for certain goods to come into the country, but more difficult for other ones, just to be refined in the overall approach, and the Russians were against it. We ended up getting France and China on our side. It was the Russians that threatened the veto.

Mr. STEARNS. Mr. Volcker's commission, do you think it can get to the bottom of this without what appears to be—some of this staff leaking documents? What is your test here? Can he get to the bottom of this?

Mr. SCHWEICH. The test will be when he issues his big report in August or September.

I work a lot with the Volcker people. It is a very dedicated, talented and experienced group of people, but they are having problems with internal dissension. And how that is going to cut, I am not sure.

Mr. STEARNS. Why did Russia oppose Smart Sanctions?

Mr. SCHWEICH. We don't know exactly why they opposed the Smart Sanctions. They claimed, at that point, they wanted sanctions lifted entirely. That would probably be the reason we tried to refine them and make them work better, and that went against their overall objective.

Mr. WHITFIELD. The gentleman's time has expired.

At this time, I am going to recognize the gentleman from Michigan for 5 minutes to follow up on the information he was trying to find earlier. While you are trying to find that, I am going to ask unanimous consent that we introduce into the record this evidence binder. Without objection, so ordered.

I would also say that after consultation with the minority, after Mr. Stupak asks his 5 minutes of questions, we are going to offer a motion that the subcommittee move into executive session.

So, at this time, I recognize you, Mr. Stupak.

Mr. STUPAK. Thank you, Mr. Chairman.

Sir, I was telling you about the two tankers that the U.S. had seized, an MIF force had seized. Looking at the document we had in the last hearing, it said that a tanker named Volganeft-147 was owned by Soviet-Finnish-American trans company, a joint venture among the Russian ministries and American company, Transcisco, and financed by European Bank for Reconstruction and Development.

Were you aware of these tankers being seized that the U.S. Had an interest in?

Mr. SCHWEICH. This is not an incident I am familiar with, but I would be willing to take the question and provide you a written answer if you like.

Mr. STUPAK. Of the 77 ships—Mr. Stearns had some questions about MIF. Of the 77 ships that were seized, cargo seized, it is our understanding only two of the 77, proceeds from those cargoes being sold, was put back into the U.N. Oil-for-Food program. What happened to the revenue from the other 75 ships?

Mr. HILLMAN. Congressman, when a ship was seized by the MIF and then diverted to a port in a neighboring country, that neighboring state was allowed, under the Security Council resolutions, to deduct costs associated with the off-loading, for example, of the oil that may have been on that vessel, and perhaps the disposal of that vessel or the return of that vessel to its rightful owners. And it was understood that the receiving state could deduct expenses, so a number of states, after deducting expenses, didn't have much left to put into the 778 account.

Mr. STUPAK. Was that program ever audited? I would think that a whole ship full of Basra light crude there would be some profit on that when you would sell it on the world market.

Mr. HILLMAN. Congressman, I am not aware of the quantities involved when you make reference to the seizure of the ships and how much oil had been seized by the MIF.

Mr. STUPAK. Was the program ever audited?

Mr. HILLMAN. Frequently. The U.N. Oil-for-Food program was officially audited every 6 months to correspond with the phases.

Mr. STUPAK. Of the 77 ships, 75 we received no money on. Was that program ever audited?

Mr. HILLMAN. I am not sure, but we would be happy to find out the answer for you.

Mr. STUPAK. Mr. Chairman, I had other areas to go into. I just wanted to clarify that point that I made earlier. Let me ask you this question then. Did the subsequent Security Council resolutions—the committee was encouraged to clarify its working procedures and develop expedited procedures; did the committee ever do this? Did the Security Council ever force any changes in the way the committee operated?

Mr. SCHWEICH. Not that I am aware of.

Mr. STUPAK. When you went to the so-called Smart Sanctions—that was on May 14, 2002, U.N. Resolution 1409—Smart Sanctions really just opened up smuggling even greater than what it was before; did it not?

Mr. HILLMAN. That might be a bit of an unfair characterization.

What we tried to do, as Mr. Schweich suggested, was to reinforce the sanctions regime as it then existed and to focus on those goods that might present the greatest possible threat for dual use.

Mr. STUPAK. We did away with the distribution plan of oil and we focused more on what items had dual use?

Mr. HILLMAN. What we tried to do was to have an actual list, as it suggested, the goods review list, of items that would need careful security by the U.N. Office of Iraq program, by the International Atomic Energy Agency.

Mr. STUPAK. It really allowed Iraq to produce and sell as much oil as it wished and spend the money on what it saw fit. I mean, we actually lost—weakened international control when it went to the Smart Sanctions under 1409.

Mr. HILLMAN. Resolution 1409, my memory of it and my reading of it is, we didn't adjust or change in any way Iraq's oil exports and its ability to export oil.

Mr. STUPAK. Well, what we saw was, as you said, more of a dual use. We looked more at what was being purchased with the money,

not necessarily how much oil was going where, what was the distribution or what was the cost.

Mr. HILLMAN. Resolution 1409 did not address the exports, but the imports.

Mr. STUPAK. On the export of oil, it did nothing to make it a smarter program?

Mr. HILLMAN. With that comment, I concur with that.

Mr. STUPAK. Mr. Hillman, let me ask you this. Are you familiar with the incident in February 2003 when Odom Marine lifted oil from an unauthorized port in Iraq that went to Jordan?

Mr. HILLMAN. I have certain familiarity. I know the chairman has suggested that there will be some issues in executive session that might be more appropriate for executive session.

Mr. STUPAK. The Financial Times—so it has been in the papers. It wouldn't be that confidential because even the Financial Times described this one to Odom Marine as the single largest and boldest smuggling operation in the Oil-for-Food program. Fourteen tankers were involved in this operation.

Mr. HILLMAN. I can only comment on what I read in the newspaper.

Mr. STUPAK. He said 14 tankers were involved. My understanding is that Michael Tellings, one of the oil overseers, told you that he was receiving calls from other companies, legitimately lifting oil, whose captains had witnessed this illegal oil lifting.

What did you do with that information?

Mr. SCHWEICH. This whole issue, even though there have been some public leaks, it still contains a significant amount of classified information. We would like to discuss it in executive session, but we don't think we should do it here.

Mr. STUPAK. Well, let me just ask this for the record. Will you submit then to the committee classified information on this program, this Odom Marine, so at least the committee would have it?

I am not talking about making it public. We have no information. We have been trying to put it together. I want to make sure we get the information we are asking.

Mr. SCHWEICH. We would like to discuss that with you in executive session.

Mr. WHITFIELD. Okay. At this time, I will make this motion pursuant to clause 2(g) of rule 11 of the Rules of the House, the remainder of the hearing will be conducted in executive session to protect information that might endanger national security.

Any discussion on the motion?

Those in favor will say aye.

The ayes have it and the motion is agreed to. We will reconvene at 1 in room 2218. And that will give you plenty of opportunity to go to one of our fine eating establishments in the building.

See you at 1 in 2218. And thank you very much for your time.

[Whereupon, at 12:20 p.m., the subcommittee recessed and subsequently proceeded to other business in closed session.]

[Additional material submitted for the record follows:]

QUESTIONS FOR THE RECORD SUBMITTED TO ANDREW HILLMAN BY REPRESENTATIVE
JOHN DINGELL

Question: In February of 2003, Odin Marine, a U.S. company working for a Jordanian company, lifted oil from an unauthorized port in Iraq that went to Jordan.

The *Financial Times* described it as the “single largest and boldest smuggling operation” in the Oil-for-Food program. Fourteen tankers were involved. (“US Ignored Warning on Iraqi Oil Smuggling,” *Financial Times*, Jan. 13, 2005)

Our staff has received information that Michel Tellings, one of the oil overseers, received information from other shippers who observed the smuggling activities, and told you about it, but received no response. Did Mr. Tellings contact you? What did you do?

Saybolt, the company hired to oversee oil-loading operations in Iraq, also reported the smuggling. Please describe in detail your actions and the actions or lack of actions taken by the U.S. Mission to the United Nations, its representative on the 661 Committee, the State Department, or any other Government agency in response to this information from Mr. Tellings and Saybolt.

Answer: On February 18, 2003, UN Office of the Iraq Program’s (OIP) then-Executive Director Benon Sevan contacted officials at the U.S. Mission to the UN to inform them of reports received from the Persian Gulf concerning alleged illegal oil loadings at the Iraqi port of Khor Al Amayah that the Multinational Maritime Interception Force (MIF) might want to investigate. Sevan indicated he had obtained this information from local sources in Iraq. Also in the same timeframe, one of the UN Oil Overseers, Michel Tellings, passed similar information to USUN officials.

USUN promptly conveyed this information through appropriate channels to officials at the State Department in Washington, seeking guidance. Department officials, in turn, reported this information, again through appropriate channels, to the Department of Defense, who had operational responsibility for the MIF. Our records do not indicate what further actions were taken by the recipients of this information.

PROVISION OF REQUESTED DOCUMENTS

The U.S. Department of State is assembling and reviewing the relevant documents that reference this matter. Given the classified and sensitive nature of these items, State Department officials are determining how best to convey this information to the Committee without violating existing national domestic laws governing the handling and dissemination of classified documents.

Question: The Washington Post subsequently reported that an official in the Office of Foreign Assets Control at the Treasury Department informed an attorney for Odin Marine that Treasury would not take action against Odin Marine. Please describe your knowledge of the role of the Treasury Department in this incident as it was related to you.

Answer: I do not recall learning of any Department of Treasury role involving communications with representative of Odin Marine. I was unaware until I read this question that an official in Treasury’s Office of Foreign Assets Control had spoken with an attorney for Odin Marine.

Question: Do you agree with the statements in the Duelfer Report and elsewhere that illegal trade with Jordan, Turkey, Egypt, Syria and other countries provided the major source of income for Saddam Hussein from 1991 through 2003 (Duelfer Report, pp. 22-24.)

Answer: From the moment the UN Security Council first imposed comprehensive sanctions on Iraq under Resolution 661 adopted August 6, 1990, former Iraqi leader Saddam Hussein and members of his regime sought to avoid compliance with the measures and to garner revenue illegally. Their efforts included unauthorized trade with compliant partners, smuggling, and a wide range of strategies designed to undermine the effectiveness of the multilateral sanctions regime imposed by the international community.

One method of non-compliance was smuggling, both through the unauthorized export of Iraqi crude oil, and through the illegal import of goods not first approved by the Iraq Sanctions 661 Committee. Oil smuggling, which reached an estimated peak level of \$2 billion in 2002, totaled approximately \$5.7 billion over the life of the UN Oil-for-Food (OFF) Program (Dec 1996-Nov 2003). This figure does not include oil illicitly exported from Iraq *prior* to the establishment of the OFF Program.

As U.S. Mission to the United Nations Chief-of-Staff Thomas A. Schweich testified on June 21, 2005, before the House Energy and Commerce Committee, Subcommittee on Investigations and Oversight, Saddam Hussein also attempted to undermine and subvert the comprehensive sanctions regime imposed under Resolution 661 (1990) through other manipulative mechanisms, including surcharges, topping off of oil loadings, influence peddling, product substitution, product diversion, phony service contracts, phantom spare parts, shell corporations, illusory performance bonds, hidden bank accounts and straight bribery.

Therefore, there were multiple ways by which Saddam acquired illegal revenue. Concerning Iraq's "illegal" trade with its neighbors, a clear distinction needs to be made between the unique cases of Jordan and Turkey, and other states in the region. Shortly after the Security Council imposed comprehensive sanctions against Iraq in 1990, the Government of Jordan sent a formal request for relief under Article 50 of the UN Charter to the Secretary-General, indicating that Jordan was being negatively impacted by the restrictive economic measures authorized by the Council against Iraq. A UN mission was sent to Jordan by the Secretary-General to investigate Jordan's claims of economic loss.

In May 1991, the Jordanian Government wrote to the Iraq Sanctions 661 Committee to inform Committee members that Jordan had resumed its importation of oil from Iraq given its unique dependence on Iraqi oil to meet its essential domestic needs. In response, the 661 Committee "took note" of Jordan's decision. The Jordanian Government thus indicated to the 661 Committee, and thereby, the Security Council, that it wished to comply with the sanctions, but that it was necessary to continue importing the oil to ensure its national economic survival and to prevent a domestic economic catastrophe.

The Jordanian Government did not act secretly, and the State Department, as per Section 531 of the Foreign Operations Appropriations Act, successively, over three separate Administrations, sought a waiver on behalf of Jordan of the U.S. restrictions that prevented the provision of assistance to countries that were violating the 661 sanctions. Congress was notified on each occasion that such a waiver was granted, and this information was published in the Federal Register.

In the case of Turkey, paragraph 2 of Resolution 986 (1995), the resolution that established the "Oil-for-Food" (OFF) Program, authorized the Turkish Government to import sufficient quantities of Iraqi oil "to meet the pipeline tariff charges, verified as reasonable by the independent inspection agents referred to in paragraph 6 [of resolution 986], for the transport of Iraqi petroleum and petroleum products through the Kirkuk-Yumurtalik pipeline in Turkey."

The Security Council and the international community were aware of Jordan's and Turkey's commercial interaction with the former Iraqi regime. However, Iraq's unauthorized trade with its neighbors and other states, such as Syria, was conducted in secrecy and denial, and was in total violation of the comprehensive measures imposed by the Security Council under Resolution 661 (1990) and subsequent resolutions.

Question: You testified that it was your "sense" that Michel Gotier, a UN employee, was not telling the "absolute truth" concerning his discussions with ABB? Please state for the record the factual basis for that statement.

Answer: My observations, as reflected in a "comment" section of my reporting cable to the Department of State dated August 2, 2002, concerning what I perceived to be Michel Gotier's less than total candor when I met with him, were prompted by what I felt was the combative and argumentative posture Mr. Gotier adopted during our discussion, and my assessment that he very likely had advised a representative of ABB-Sweden to seek a non-U.S. source for computer hardware and software not subject to U.S. re-export restrictions. I also suspected, without clear evidence, that Mr. Gotier, in his discussions with ABB-Sweden representatives, probably referred to the rumored Iraqi practice of demanding a kickback on UN Oil-for-Food humanitarian supply contracts as the requisite cost for doing business in Iraq.

I intentionally separated such observations in the cable from my otherwise purely factual recounting of my August 2, 2002 discussion with Mr. Gotier, and his supervisor, UNDP Deputy Assistant Administrator and Deputy Regional Director for Arab States, Oscar Fernandez-Taranco. My comments were placed in a separate paragraph to clarify that they represented my personal views and, thus, needed to be evaluated as opinion.

QUESTION FOR THE RECORD SUBMITTED TO CHIEF OF STAFF THOMAS SCHWEICH BY
REPRESENTATIVE JOHN DINGELL

Question: You stated in your testimony that it was very, very difficult for the persons from the 661 Committee to determine that humanitarian goods contracts were overpriced. What actions could the 661 Committee have taken to uncover and eliminate the kickbacks on these contracts?

Answer: Under the arrangements governing the UN Oil-for-Food (OFF) Program, the former Iraqi regime was, in general, free to select to whom it would sell Iraqi oil, and from whom it would purchase humanitarian goods using the revenue derived from its oil exports. Resolution 986 (1995), which established the OFF Program, did not require Saddam Hussein to purchase the best valued products or the

least expensive ones. The focus was on enabling Iraq to acquire goods to provide for the nutritional and health needs of its people. The Security Council placed primary emphasis on denying the Iraqi regime access to arms, including WMD, and related war materiel with which it might again pose a threat to regional and international peace.

There were earlier attempts, under Resolutions 706 (1991) and 712 (1991), to establish a UN-administered program to use Iraqi oil revenue to provide for the humanitarian needs of the Iraqi people. These original proposals were based on the premise that the UN would serve as contracting agent on behalf of the Iraqi people in procuring humanitarian supplies, but the former Iraqi regime repeatedly rejected such plans. Our request for humanitarian goods overseers also was deemed unacceptable. Short of forcefully imposing such a program on Iraq in the face of Saddam's defiance, having the UN purchase humanitarian supplies for Iraq was not politically achievable.

Therefore, having the UN, rather than the former Iraqi regime, enter into humanitarian supply contracts was not an option for the 661 Committee to pursue as a means of uncovering and eliminating kickbacks on supply contracts. If UN officials who were tasked with administering the OFF Program at the Office of the Iraq Program (OIP) had spent more time evaluating whether prices on specific items in OFF contracts were similar to those being charged for comparable merchandise found in other markets, it would have further delayed the processing and approval of OFF humanitarian contracts at a time when the Iraqi people desperately needed supplies to survive. In retrospect, perhaps OIP officials could have conducted more random assessments of various contracts that contained different types of products to determine if there was deliberate over-pricing, but the main focus remained to prevent Saddam from rearming. It is clear having the subject of the sanctions enter into contractual relationships with those who sought to buy its products (i.e., oil) and to sell it humanitarian supplies was not a desirable arrangement, but that was the only approach the Iraqis, as well as several key Security Council members, found acceptable. Had the former Iraqi regime been more accommodating, the UN could have sought the assistance of professionals to administer the Oil-for-Food (OFF) Program.

Question: Did the United States ever withhold approval of a humanitarian goods contract because it was overpriced?

Answer: The United States did place holds on UN Oil-for-Food (OFF) contracts based on pricing concerns. Although such holds only involved a relatively small number of contracts, the U.S. did in other instances assess the price of specific items when deciding whether to approve or place on hold individual OFF humanitarian contracts.

One example was Comm #730859, submitted during the 7th Phase of the OFF Program (12/12/99-06/08/00), in which the U.S. Delegation, in placing a "hold" on the contract, advised the UN Office of the Iraq Program (OIP) that "prices for delivery and handling services and the after-sale services are considered to be significantly higher than what is considered reasonable."

A second example of a contract placed on hold by the U.S. Delegation because of pricing concerns involved Comm #930167, originally submitted during the 9th Phase of the OFF Program (12/16/00-06/03/01). Our records indicate that the U.S. initially placed Comm #930167 on hold because of suspicions that certain items might be dual-use, but we also noted, "even if the supplier were able to address this objection, another objection is that the price charged seems excessive for the normal cost of these goods."

Question: In your testimony, you stated that the sanctions were not anticipated to remain in place for more than a year or two because Saddam was expected to comply with the provisions of the cease-fire. You also stated that the illegal export of Iraqi oil to Jordan, which began in 1990, was an "approved activity by the entire 661 Committee." The Duelfer Report, however, in referring to the open, but "illegal," export of oil from Iraq to Jordan, found that "Jordan was the key to Iraq's financial survival from the imposition of UN sanctions in August 1990 until the implementation of the UN's OFF program." (Duelfer Report, p. 24.) Do you agree with this statement? If not, please explain.

Answer: As was discussed during the June 21, 2005 House Energy and Commerce Committee, Subcommittee on Investigations and Oversight hearing, the comprehensive sanctions imposed on Iraq by the Security Council under Resolution 661 (1990), following Iraq's invasion of Kuwait, had an initially profound impact not only on Iraq but also on its neighbors, particularly Jordan, given Jordan's historically extensive trading relationship with Iraq. It therefore was understood by Security Council members that an ongoing arrangement for Jordan would be necessary to counteract the negative impact of the sanctions on Iraq, to prevent a potential economic catastrophe in Jordan.

Shortly after the Security Council imposed sanctions on Iraq in 1990, the Government of Jordan sent a formal request to the Secretary-General for relief under Article 50 of the UN Charter, indicating that Jordan was being severely negatively impacted by the restrictive economic measures authorized by the Council against Iraq. The Secretary-General sent a mission to Jordan to investigate Jordan's claims of economic loss and demanded that the UN Security Council take measures to alleviate the hardship on Jordan.

In May 1991, the Jordanian Government wrote to the Iraq Sanctions 661 Committee to inform Committee members that Jordan had resumed its importation of oil from Iraq, given its unique dependence on Iraqi oil to meet its essential domestic needs. The Jordanian Government thus indicated to the 661 Committee of the Security Council, that it recognized and wished to comply with the sanctions, but that it was necessary to continue importing Iraqi oil to ensure its national economic survival.

The Jordanian Government made the 661 Committee aware of the ongoing trading relationship between Jordan and Iraq, and the Committee agreed to take note of such an arrangement, for geopolitical reasons. The 661 Committee's correspondence with the Jordanian Government read as follows:

"I have the honour to inform you that, given the unique position of Jordan in regard to Iraq, as the Committee has previously acknowledged, the Committee at its 41st meeting, held on 21 May 1991, took note of Jordan's resumption of the import of Iraqi oil and oil derivatives as described in your note verbale, pending any arrangements that can be made to obtain supplies from other sources, and on the understanding that such Iraq oil exports are subject to the provisions of the Security Council resolution 692 (1991)."

The Committee acknowledged the serious economic impact that the sanctions on Iraq were having on Jordan, and requested that the Jordanian Government report to the Committee on the quantities, value, and date of import of each oil shipment it received from Iraq. This arrangement was done to alleviate economic hardship and to avoid the severe consequences that a failing Jordanian economy might have on the world. It was done transparently and openly, with the knowledge of the entire 661 Committee, and the international community.

The U.S., a member of the 661 Committee, over three successive Administrations, acknowledged such trade, determining that the national security priority of preventing Saddam from rearming and again posing a threat to his neighbors did not simultaneously necessitate weakening Jordan's economy to such an extent that the future stability of the Jordanian Government would be put at risk. The State Department, as per Section 531 of the Foreign Operations Appropriations Act, successively, over three separate Administrations, sought on behalf of Jordan a waiver of U.S. restrictions that prevented the provision of assistance to countries that were violating the 661 sanctions. Such a waiver was granted, Congress was notified on each occasion, and this information was published in the Federal Register. To our knowledge, no member of Congress voiced objections to this arrangement.

Cooperation by the 661 Committee, the Security Council, and successive U.S Administrations with Jordan to ensure its survival should not be equated with Saddam Hussein's outright efforts from the moment the Security Council first imposed multilateral sanctions on Iraq to evade compliance with the measures. I testified on June 21, 2005 that there was a distinction between the government-to-government protocol that existed between Jordan and Iraq, and the pure smuggling in which the former Iraqi regime engaged to generate revenue. The U.S. took extensive steps to curtail and arrest such smuggling. As I noted at the June 21 hearing, U.S. and UK efforts to establish a "smart" sanctions regime for Iraq, by establishing more rigorous border controls and more stringent restrictions designed to curtail smuggling, was rejected by other key Security Council members, particularly the Russian Federation.

In my view, U.S. and UN Security Council acknowledgement of Jordan's special situation is not analogous to the bribery, corruption, kickbacks, and other actions that Saddam Hussein and members of the former Iraqi regime took to evade and undermine the effectiveness of the multilateral sanctions regime that was imposed on Iraq.

Question: The 661 Committee minutes indicate that it never approved the request by Jordan to import oil from Iraq or to sell goods to Iraq. In fact, in 1997, the U.S. representative to the 661 Committee stated that taking "note" of the Jordanian trade did not imply approval and questioned whether the 661 Committee even had the authority to approve such export. The British representative agreed with this interpretation. Do you disagree with this position?

Answer: While the 661 Committee did not formally approve Jordan's ongoing trade with Iraq, the decision by the Committee in May 1991 "to take note of" Jor-

dan's resumption of its importation of oil from Iraq, despite comprehensive sanctions against Iraq, was considered tacit acknowledgement of the situation, including by the United States, that Jordan's ongoing stability should not be undermined as a result of the sanctions on Iraq. The objective of containing the former Iraqi regime, and of preventing Saddam from rearming and acquiring WMD with which to pose a threat to regional and international stability, was not seen as requiring the simultaneous weakening and destruction of Jordan. Just as keeping Saddam in check was determined to be a U.S. national security priority, so, too, was it determined to be in the best interests of the U.S. and the international community to avoid irreparably harming Jordan's economy and society by eliminating the close cross-border trading relationship between Jordan and Iraq that had developed over centuries, and on which continued Jordanian stability depended.

This was a calculated geopolitical decision taken by all Council members. No delegation recommended follow-up action. However, this acknowledgement did not condone abuse of such a special relationship, and it was for this reason that the U.S. and UK jointly attempted in the Spring of 2001 to seek Security Council adoption of a draft resolution that would have tightened border controls on Iraq and that would have sought to regularize cross-border traffic between Iraq and its neighbors. A number of key Council partners opposed the U.S. and UK efforts, in particular, the Russian Federation, thereby preventing adoption of the draft resolution.

Question: You have stated that allowing Jordan to import oil and pay billions of dollars to Saddam Hussein was "honorable." What do you mean by that? Are you saying that it was honorable to provide Saddam Hussein with the financial resources to continue in power?

Answer: First, I note that what I specifically said during my testimony on June 21, 2005 before the Committee was that even though Jordan may not always have followed the rules as we understood them to be, "the overall intent of the United States, the UK, and the other Security Council members in allowing Jordan to import this oil was honorable and not a conspiracy at all. It was totally out in the open." I also noted that under requirements of the Foreign Operations Assistance Act, the President, under three separate administrations, issued a waiver for Jordan that allowed U.S. assistance to continue, and that copies of such waivers were provided on an annual basis to Congress and they were published in the Federal Register. Also for the record, I note that I did not characterize Jordan's actions as honorable or dishonorable. What I said specifically was:

"I can't say Jordan always followed the rules as we understood them to be. But what I would say is the overall intent of the United States, the U.K. and all the other Security Council members in allowing Jordan to import this oil was honorable and not a conspiracy at all. It was totally out in the open. In fact, under the Foreign Operations Assistance Act, under three administrations, Bush I, eight years of the Clinton administration, and Bush II,—the president issued a waiver for Jordan, sent it off to Congress, published it in the Federal Register. To me that is not a conspiracy."

My comment did not imply that it was honorable or desirable to provide Saddam with sufficient financial resources to continue in power. Rather, it was a reference to the thoughtful, open, and geopolitically wise decision taken by three successive U.S. Administrations, with Congressional notice to allow Jordan to import oil from Iraq. It was meant to underscore the critical importance to U.S. and regional security that a stable Jordan represented.

Question: Did the United States ever bring its concerns about the difficulties and limitations of the 661 Committee or the way it was managed to the UN Security Council? If so, what was the result of those discussions?

Answer: There were numerous occasions where lack of agreement among 661 Committee members prompted discussions among members of the Security Council at ambassadorial level on a wide range of issues, including: oil pricing, flights to/ from Iraq, the need for stricter border controls, the former Iraqi regime's arbitrary and abrupt termination of its oil exports, contract holds, insufficient funding for the Oil-for-Food (OFF) Program, and many other contentious matters. Most key issues concerning management and implementation of the OFF Program, in particular non-compliance, were the subject of discussion among Security Council members.

Separately, the U.S. Mission to the UN held a number of informal briefings for other Security Council members, usually with the presence of experts from Washington, to inform the Council of problems the U.S. perceived in the management of the OFF Program, and in the workings of the 661 Committee. The contentious atmosphere that pervaded 661 Committee and Security Council consideration of issues concerning Iraq limited our ability to implement the types of changes we sought. It should be pointed out, however, that the working methods of the Committee enabled the U.S. to block importation of dual-use goods to Iraq on many occasions.

Such working methods also allowed the U.S. to use Committee rules to our advantage in implementing a system of “retroactive” oil pricing that allowed us and the British to assess the relative price of comparable crude oils at the end of each month before we agreed to prices proposed for Iraqi oil exports submitted by the Iraq State Oil Marketing Organization (SOMO).

Question: Please describe the involvement of the U.S. Department of State in the lifting of Iraqi oil by Odin Marine in February of 2003 for Millennium, a Jordanian company.

Answer: The first the U.S. Mission to the United Nations (USUN) learned of the lifting of Iraqi oil by Odin Marine in February 2003, for the Jordanian company Millennium, was when, on February 18, 2003, then UN Office of the Iraq Program's (OIP) Executive Director Benon Sevan contacted USUN officials to inform them of reports received from the Persian Gulf concerning alleged illegal oil loadings at the Iraqi port of Khor Al Amayah, reports that the Multinational Maritime Interception Force (MIF) might want to investigate. Sevan indicated he had obtained this information from local sources in Iraq. Also in the same timeframe, one of the UN Oil Overseers, Michel Tellings, passed similar information to USUN officials.

USUN promptly conveyed this information through appropriate channels to officials at the State Department in Washington, seeking guidance. Department officials, in turn, reported this information, again through appropriate channels, to the Department of Defense, which had operational responsibility for the MIF. Our records do not indicate what further actions were taken by the recipients of this information.

Provision of Requested Documents

The U.S. Department of State is assembling and reviewing the relevant documents that reference this matter. Given the classified and sensitive nature of these items, State Department officials are determining how best to convey this information to the Committee without violating existing national domestic laws governing the handling and dissemination of classified documents.

